

1999 MONOGRAPH of PUBLIC COMMENTS

1999 ANNUAL CODE ADOPTION CYCLE

NOTE: Bring this document and the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH" to the California Building Standards Commission meeting on January 26, 2000. This meeting will be held at Consumer Affairs Building, First Floor Hearing Room, and 400 R Street, Sacramento, California 95814.

This meeting may continue to January 27, 2000. Please call CBSC at (916) 323-9495 to confirm the meeting date and time.

**DECEMBER
1999**

**Travis Pitts, Executive Director
California Building Standards Commission
1130 K Street, Suite 101
Sacramento, CA 95814
(916) 323-6363**

Aileen Adams, Chair
Fady Mattar, Vice Chair, Mechanical Engineer
Vacant, Licensed Contractor
Leon Bane, Organized Labor
Rebecca Geneck, Public Member
Betsy Weisman, Public Member

Vacant, Public Member/Disabled
Pete Guisasola, Local Building Official
Vacant, Architect
Vacant, Local Fire Official
Vacant, Structural Engineer

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Accessibility Committee

[A]

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Cynthia Waddell, Vice Chairperson
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Robert Evans
Arnie Hollander
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Rocky Burkes
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Wayne Maynard
Rob McNeill
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Structural Design/Lateral Forces Committee [SDLF]

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[HF]

Jerry Metcalfe, Chairperson
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Robert Macaluso
Lowell Shields
Christopher Lloyd
Jeff Maddox
Michael Navarro
Langston Trigg, Jr.
John Pulcini
Ellie Ross

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This meeting may continue to January 27, 2000. Please call CBSC at (916) 323-9495 to confirm the public meeting date and time.

**SEPTEMBER
1999**

**Travis Pitts, Executive Director
California Building Standards Commission
1130 K Street, Suite 101
Sacramento, CA 95814
(916) 323-6363**

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PREFACE

California Building Standards Law (Health and Safety Code Section 18930) requires state agencies that propose building standards to submit the proposed building standards to the California Building Standards Commission (CBSC) for review and approval. Further, Health and Safety Code Section 18929.1 requires the proposed building standards to be considered in an annual code adoption cycle.

This document contains public comments received during the 45-day public comment period to proposed building standards that are being considered in the 1999 Annual Code Adoption Cycle.

The purpose of this document is to make the public comments available to the public prior to the CBSC taking an action on the proposed building standards. Modifications may be made to the proposed building standards. Modifications would be a result of the public comments contained in this document, if acted upon by the Commission.

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MEETING NOTICE

Notice is hereby given that the California Building Standards Commission will be meeting to take an action on proposed code changes submitted in the 1999 Annual Code Adoption Cycle. An open meeting has been schedule on January 26, 2000 at 10:00 a.m. (This meeting may continue through December 27, 1999). The meeting will be held at the Consumer Affairs Building, First Floor Hearing Room, 400 R Street, Sacramento, California 95814.

The meeting facilities and restrooms are accessible to persons with disabilities. Request for accommodations for persons with disabilities (assistive listening device, sign language interpreters, etc.) should be made to the Commission no later than 10 working days prior to the day of the meeting. Limited accessible on street parking is available.

There is a public parking structure at 500 R Street. The entrance to this parking structure is off 5th Street. If Paratransit services are need, they may be contacted at (916) 363-0661. Regional Transit may be contacted at (916) 321-2877 and the TDD line for hearing impaired at (916) 483-4327.

The proposed code changes to be considered by the Commission are contained in the "45 Day Public Comment Monograph" dated September 1999. Prior taking an action the Commission will consider the public comments received by October 25, 1999. Those comments are contained within this monograph. The Commission will not considered any new issues or comments that are not printed in the December 1999 monograph.

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COMMENT FORM

Any person wishing to comment in support of the proposed code changes and/or to comment in support or opposition to the comments contained in this monograph, they may do so at this meeting. Comments must be based upon one or more of the "Nine Point Criteria." See "Nine Point Criteria" on the following page. A "Comment Form" is provided below. This form should be filled out and given to the Commission staff prior to meeting commencing. An individual form must be completed for each item that you wish to make a comment.

BUILDING STANDARDS COMMISSION REQUEST TO ADDRESS THE COMMISSION

NAME _____ TELEPHONE NO. () _____

ADDRESS _____ CITY _____ ZIP CODE _____

ORGANIZATION/GROUP YOU ARE
REPRESENTING: _____

PLEASE INDICATE THE FOLLOWING:

 **AGENDA ITEM NUMBER YOU WISH TO COMMENT ON:** _____

- ☐ **SUPPORT AS SUBMITTED** (Must comply with all of the Nine Point Criteria)
- ☐ **OPPOSE** (Indicate below the "Nine Point Criteria" you are using to support your comment)
- ☐ **SUPPORT WITH AMENDMENTS** (Indicate below the "Nine Point Criteria" you are using to support your comment)
- ☐ **FURTHER STUDY** (Indicate below the "Nine Point Criteria" you are using to support your comment)

(The "Nine Point Criteria" is shown on page iv of this Monograph)

COMMENTS

The individual addressing the Commission is voluntarily providing the personal information requested above. Under Government Code Section 11124, no person is required to register his or her name as a condition to attend a meeting of a State body.

HEALTH & SAFETY CODE SECTION 18930 (Nine Point Criteria)

SECTION 18930. APPROVAL OR ADOPTION OF BUILDING STANDARDS; ANALYSIS AND CRITERIA; REVIEW CONSIDERATIONS; FACTUAL DETERMINATIONS

- (a) Any building standard adopted or proposed by state agencies shall be submitted to, and approved or adopted by, the California Building Standards Commission prior to codification. Prior to submission to the commission, building standards shall be adopted in compliance with the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency or state agency that proposes the building standards which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:
- (1) The proposed building standards do not conflict with, overlap, or duplicate other building standards.
 - (2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.
 - (3) The public interest requires the adoption of the building standards.
 - (4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.
 - (5) The cost to the public is reasonable, based on the overall benefit to be derived from the building standards.
 - (6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.
 - (7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.
 - (A) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the commission.
 - (B) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the state agency shall prepare a statement informing the commission and submit that statement with the proposed building standard.
 - (8) The format of the proposed building standards is consistent with that adopted by the commission.
 - (9) The proposed building standard, if it promotes fire and panic safety as determined by the State Fire Marshal, has the written approval of the State Fire Marshal.
- (b) In reviewing building standards submitted for its approval, the commission shall consider only the record of the proceedings of the adopting agency, except as provided in subdivision (b) of Section 11342.3 of the Government Code.
- (c) Where the commission is the adopting agency, it shall consider the record submitted to, and considered by, the state agency that proposes the building standards and the record of public comment that results from the commission's adoption of proposed regulations.
- (d)
 - (1) The commission shall give great weight to the determinations and analysis of the adopting agency or state agency that proposes the building standards on each of the criteria for approval set forth in subdivision (a). Any factual determinations of the adopting agency or state agency that proposes the building standards shall be considered conclusive by the commission unless the commission specifically finds, and sets forth its reasoning in writing, that the factual determination is arbitrary and capricious or substantially unsupported by the evidence considered by the adopting agency or state agency that proposes the building standards.
 - (2) Whenever the commission makes a finding, as described in this subdivision, it shall return the standard to the adopting agency or state agency that proposes the building standards for a reexamination of its original determination of the disputed fact.
- (e) Whenever a building standard is principally intended to protect the public health and safety, its adoption shall not be a "factual determination" for purposes of subdivision (d). Whenever a building standard is principally intended to conserve energy or other natural resources, the commission shall consider or review the cost to the public or benefit to be derived as a "factual determination" pursuant to subdivision (d). Whenever a building standard promotes fire and panic safety, each agency shall, unless adopted by the State Fire Marshal, submit the building standard to the State Fire Marshal for prior approval.
- (f) Whenever the commission finds, pursuant to paragraph (2) of subdivision (a), that a building standard is adopted by an adopting agency pursuant to statutes requiring adoption of the building standard, the commission shall not consider or review whether the adoption is in the public interest pursuant to paragraph (3) of subdivision (a).

DECEMBER 1999

***Public Comments to the California Building Standards Codes
Title 24
California Code of Regulations
(Submittals for 1999 Annual Code Adoption Cycle)***

NOTE: It is important to retain this part of the California Building Standards in order to follow the proposed revisions through the code change cycle.

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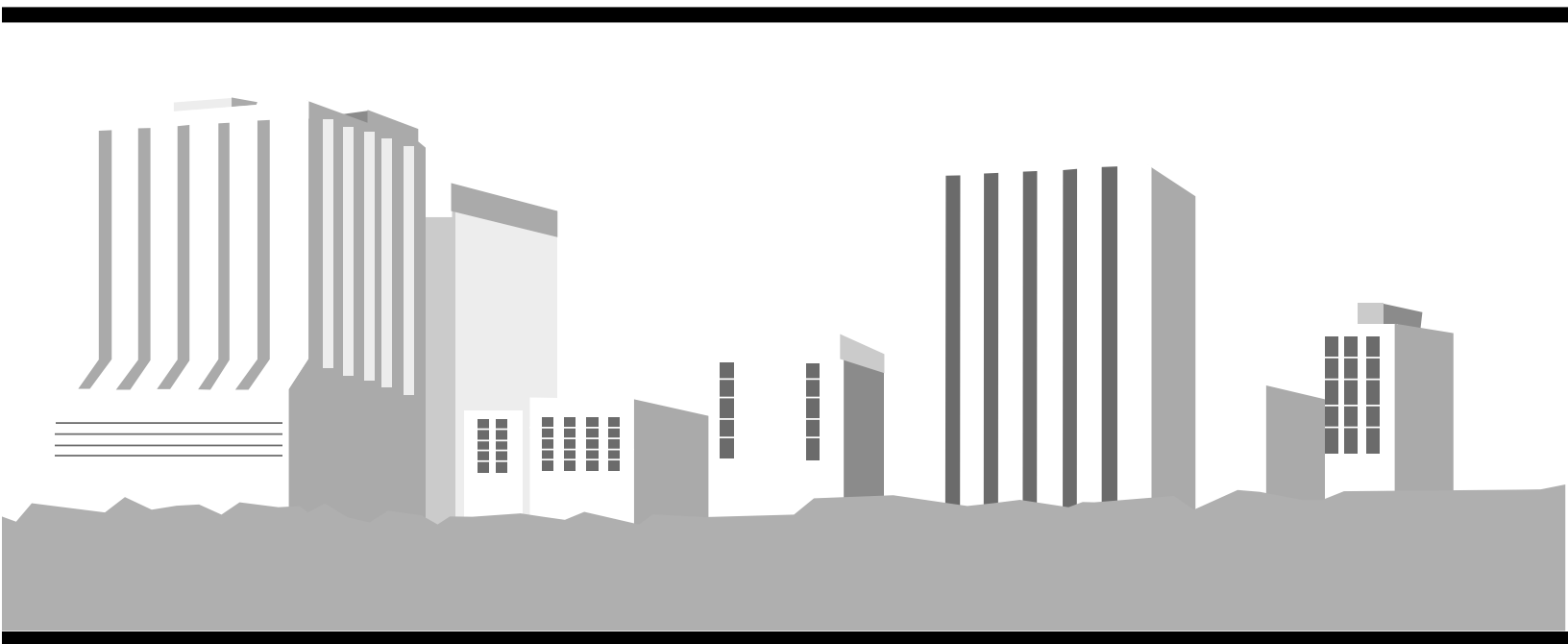
NO COMMENTS RECEIVED FOR PART 4

PART 5 - CALIFORNIA PLUMBING CODE

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PART 1
CALIFORNIA BUILDING STANDARDS
BUILDING CODE



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ITEM 1

OSHDP 9/99

PART 1, CHAPTER 7

(See this Item commencing on page 3, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

Text that is shown highlighted represents the commentator's proposed amendments.

ITEM 1– COMMENT NUMBER 1:

Kurt A. Schaefer, Deputy Director
Office of Statewide Health Planning and Development (OSHDP)
Sacramento, California

ACTION REQUESTED: OSHDP does not agree with the Health Facilities Advisory Committee's recommendation of "Approve As Resubmitted." OSHDP is requesting that this item be **"Approved As Amended."** See amendment below.

REASON: This amendment is necessary because recent changes in policy and contractual agreements with the Department of Conservation which now requires that only one site data report be submitted to the Department instead of two. The Office retains two copies, for Office use.

The Office would like to make a modification to Item I "As Resubmitted" and requests approval of the amended item as shown below:

OSHDP's PROPOSED AMENDMENT

7-117 Site Data.

(a) *The site data reports shall be required for all proposed construction except:*

(b) ~~Four~~ Three copies of site data reports shall be furnished to the Office

ITEM 1-COMMENT NO. 1 COMMISSION ACTION

A A/A D F/S

Reason: _____

* * *

(END OF ITEM)

ITEM 1– COMMENT NUMBER 2:

Brenda Lee Pickern
Chico, California

ACTION REQUESTED: Brenda Lee Pickern does not agree with the Health Facilities Committee's recommendation of "Approve As Resubmitted." Brenda has requested that this item be **"Disapproved."**

REASON: No. 1) It conflicts with the requirements of a qualified building inspector.

No. 2) I feel that this item is in direct conflict of and overlaps the responsibilities of OSHDP.

No. 3) Public interest does not require this to be adopted.

No. 5) This is vague and capricious and is going to cause more confusion.

No. 9) I am concerned with the knowledge of individuals not specializing in this field may affect public safety.

ITEM 1-COMMENT NO. 2 COMMISSION ACTION

A A/A D F/S

Reason: _____

* * *

(END OF ITEM)

ITEM 1 – COMMENT NUMBER 3:

Brenda Lee Pickern
Chico, California

ACTION REQUESTED: Brenda Lee Pickern does not agree with the Health Facilities Advisory Committee's recommendation of "Approve As resubmitted." Brenda has requested that this item be **"Disapproved."**

REASON: No.1) It conflicts with the requirements of a qualified building inspector.

No. 2) I feel that this item is in direct conflict of and overlaps the responsibilities of building inspectors.

No. 3) Public interest does not require this to be adopted.
No. 5) This is vague and capricious and is going to cause more confusion. The definition of floor area can be ANYWHERE with the floors structural area. To make this clear there needs to be specific language on how far a person with disabilities is going to have to travel.

No. 9) I am concerned with the knowledge of individuals not specializing in this field may affect public safety.

<p>ITEM 1-COMMENT NO. 3 COMMISSION ACTION</p> <p>A A/A D F/S</p> <p>Reason: _____</p> <p>_____</p> <p>_____</p> <p>_____</p>

* * *
(END OF ITEM)

ITEM 2

OSHDP 10/99

PART 1, CHAPTER 7

(See this Item commencing on page 16, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

ITEM 2 – COMMENT NUMBER 1:

Brenda Lee Pickern
Chico, California

ACTION REQUESTED: Brenda Lee Pickern does not agree with the Health Facilities Advisory Committee's recommendation of "Approve As Resubmitted." Brenda has requested that this item be held for **"Further Study."**

REASON: No. 9) Public Safety

ITEM 2-COMMENT NO. 1 COMMISSION ACTION
A A/A D F/S
Reason: _____

* * *
(END OF ITEM)

ITEM 3
OSHDP 4/99
PART 1, CHAPTER 7

(See this Item commencing on page 21, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

ITEM 3 – COMMENT NUMBER 1:

Brenda Lee Pickern
Chico, California

ACTION REQUESTED: Brenda Lee Pickern does not agree with the Health Facilities Advisory Committee's recommendation of "Approve As Resubmitted." Brenda has requested that this item be held for "**Further Study.**"

REASON: No. 1) It conflicts with the requirements of a qualified building inspector.

No. 2) I feel that this item is in direct conflict of and overlaps the responsibilities of OSHDP.

No. 3) Public interest does not require this to be adopted.

No. 5) This is vague and capricious and is going to cause more confusion.

No. 9) I am concerned with the knowledge of individuals not specializing in this field may affect public safety.

ITEM 3-COMMENT NO. 1
COMMISSION ACTION

A A/A D F/S

Reason:

* * *
(END OF ITEM)

ITEM 4
OSHDP 3/99
PART 1, CHAPTER 7

(See this Item commencing on page 23, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

ITEM 4 – COMMENT NUMBER 1:

Brenda Lee Pickern
Chico, California

ACTION REQUESTED: Brenda Lee Pickern does not agree with the Health Facilities Advisory Committee's recommendation of "Approve As Resubmitted." Brenda has requested that this item be held for **"Further Study."**

REASON: No. 1) It conflicts with the requirements of a qualified building inspector.

No. 2) I feel that this item is in direct conflict of and overlaps the responsibilities of OSHDP.

No. 3) Public interest does not require this to be adopted.

No. 5) This is vague and capricious and is going to cause more confusion.

No. 9) I am concerned with the knowledge of individuals not specializing in this field may affect public safety.

ITEM 4-COMMENT NO. 1
COMMISSION ACTION

A A/A D F/S

Reason:

* * *

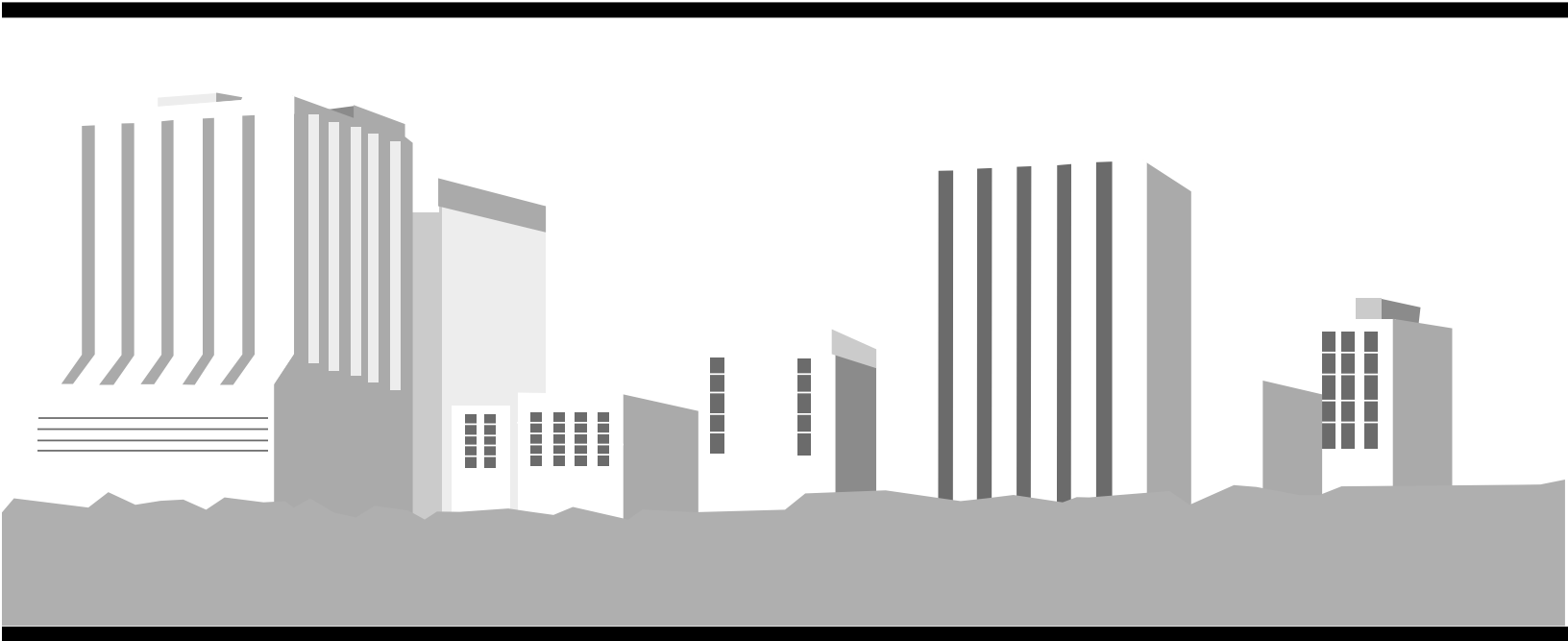
(END OF ITEM)

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PART 2

CALIFORNIA BUILDING STANDARDS

BUILDING CODE



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ITEM 5

OSHDP 7/99

PART 2, CHAPTER 3

(See this Item commencing on page 29, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

ITEM 5 – COMMENT NUMBER 1:

Brenda Lee Pickern
Chico, California

ACTION REQUESTED: Brenda Lee Pickern does not agree with the Health Facilities Advisory Committee's recommendation of "Approve As Resubmitted." Brenda has requested that this item be held for "**Further Study.**"

REASON: No reasons provided.

<p>ITEM 5-COMMENT NO. 1 COMMISSION ACTION</p> <p>A A/A D F/S</p> <p>Reason: _____</p> <p>_____</p> <p>_____</p> <p>_____</p>

* * *

(END OF ITEM)

ITEM 6

OSHDP 6/99

PART 2, CHAPTER 4A

(See this Item commencing on page 31, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

Text that is shown highlighted represents the commentator's proposed amendments.

ITEM 6 – COMMENT NUMBER 1:

Kurt A. Schaefer, Deputy Director
Office of Statewide Health Planning and Development (OSHDP)
Sacramento, California

ACTION REQUESTED: OSHDP does not agree with the Health Facilities Advisory Committee's recommendation of "Further Study". OSHDP is requesting that this item be **"Approved As Amended."** See amendment below.

REASON: OSHDP is resubmitting Item 6 with amendments to clarify existing language. As currently written, Section 420A.7.1 of the California Building Code is vague and ambiguous. The scope of this proposed change to the Office's original submittal is not intended to add any requirements which are not presently in code but rather to clarify the intent of the section.

The additional language to Section 420A.7.1 is meant to clarify the amount of area, which must be provided for natural ventilation. Section 1202.2.1 of the California Building Code already requires that Group I Occupancies be provided with either natural ventilation by means of openable exterior openings with an area of not less than 1/20 of the total floor area or by mechanical ventilation. Section 420A.7.1 does not allow mechanical ventilation but instead requires natural ventilation only. This change is to bring forward the ventilation opening size requirement found in Section 1202.2.1 into the language of Section 420A.7.1.

OSHDP's PROPOSED AMENDMENT

Chapter 4A
SPECIAL USE AND OCCUPANCY

Division 111- OFFICE OF STATEWIDE HEALTH
PLANNING AND DEVELOPMENT

SECTION 420A [FOR OSHDP 1] - HOSPITALS

420A.1 Scope.

420A.2 Application.

420A.3 Definitions.

420A.4 General Construction.

420A.5 Corridors.

420A.6 Doors and Door Openings.

420A.7 Windows and Screens.

420A.7.1 Rooms approved for the housing of patients shall be provided with natural light by means of exterior glazed openings excluding clerestory window, obscure glass and skylights, with an area not less than one tenth of the total floor area and natural ventilation by means of an exterior opening with an area not less than one twentieth of the total floor area.

EXCEPTIONS: 1. Intensive-care newborn nurseries. 2. Intensive-care units other than intensive-care nurseries shall be provided with exterior glazed openings, excluding obscure glass, sized and located in a manner to provide patients with an awareness of the outdoors.

ITEM 6-COMMENT NO. 1 COMMISSION ACTION

A A/A D F/S

Reason: _____

* * *

(END OF ITEM)

ITEM 6 – COMMENT NUMBER 2:

Kurt A. Schaefer, Deputy Director
Office of Statewide Health Planning and Development (OSHDP)
Sacramento, California

ACTION REQUESTED: OSHDP does not agree with the Health Facilities Advisory Committee's recommendation of "Further Study". OSHDP is requesting that this item be **"Approved As Amended."** See amendment below.

REASON: OSHDP is resubmitting Item 6 with amendments to Section 420A.7.2, Exception No. 2, of the California Building Code (CBC). These resubmitted changes are meant to clarify the requirement and return to the original

intent of the exception. The existing reference to Section 403.4 allows either a mechanical or passive smoke control system. Since Group I, Division 1. 1 occupancies already require passive smoke control in the form of smoke barriers, the exception as presently written in existing code does nothing. This was an oversight, which was inadvertently missed in the 1995 CBC adoption because of the new code Section 905 -Smoke Control. The original intent of the exception was to provide a method of removing smoke from buildings, which do not have operable windows. This intent is clear in the 1992 CBC, Section 1007A(b), Exception No. 2, which referred to Section 1807(g). Section 1807(g) of the 1992 CBC required either operable windows or a mechanical smoke removal system. The proposed revision will accomplish that original intent.

ITEM 6-COMMENT NO. 2
COMMISSION ACTION

A A/A D F/S

Reason:

OSHPD's PROPOSED AMENDMENT

Chapter 4A, Section 420A.7.2
SPECIAL USE AND OCCUPANCY

*Division III - OFFICE OF STATEWIDE HEALTH PLANNING
AND DEVELOPMENT*

SECTION 420A [FOR OSHPD 1] - HOSPITALS

420A. 1 Scope.

420A.2 Application.

420A.3 Definitions.

420A.4 General Construction.

420A.5 Corridors.

420A.6 Doors and Door Openings.

420A.7 Windows and Screens. ...

420A.7.2 Patient room window openings shall be operable and shall have sills not more than 36 inches (914mm) above the floor. Where windows require the use of tools or keys for operation, the tools or keys shall be located at the nurse's station.

EXCEPTIONS: 1. Windows in intensive-care units may be 60 inches (1524 mm) above the floor.

2. Windows in buildings which have a mechanical smoke-control systems complying with Section 403.4 905 need not be operable.

3. Windows of isolation rooms shall only be operable by the use of tools or keys, which shall be located at the nurses' station.

420A 7.3 Safety glass....

* * *

(END OF ITEM)

ITEM 7

OSHPD 7/99

PART 2, CHAPTER 4A

(See this Item commencing on page 34, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

ITEM 7 – COMMENT NUMBER 1:

Brenda Lee
Chico, California

ACTION REQUESTED: Brenda Lee Pickern does not agree with the Health Facilities Advisory Committee's recommendation of "Approve as Submitted". Brenda is requesting that this item be held for **"Further Study."**

REASON: No. 1) It conflicts with the requirements of a qualified building inspector.

No. 2) I feel that this item is in direct conflict of and over laps the responsibilities of OSHPD.

No. 3) Public interest does not require this to be adopted.

No. 5) This is vague and capricious and is going to cause more confusion.

No. 9) I am concerned with the knowledge of individuals not specializing in this field may affect public safety.

ITEM 7-COMMENT NO. 1 COMMISSION ACTION

A A/A D F/S

Reason:

* * *
(END OF ITEM)

ITEM 8

SFM 8/99

PART 2, CHAPTER 7

(See this Item commencing on page 36, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

Text that is shown highlighted represents the commentator's proposed amendments.

ITEM 8 – COMMENT NUMBER 1:

John K. Guhl, Deputy State Fire Marshal
Regulations Coordinator
Office of the State Fire Marshal (SFM)
Sacramento, California

ACTION REQUESTED: The SFM agrees with the Building, Fire and Other Advisory Committee's recommendation of "Approve as Resubmitted" except for text that the SFM is proposing to amend. The SFM is requesting that this item be "**Approved As Amended.**" See amendment below.

REASON: This would clarify the intent of this amendment and be consistent with the interpretation of the 1996 Edition of NFPA 72 National Fire Alarm Code Handbook. This additional language would also comply with the "Nine Point Criteria".

SFM's PROPOSED AMENDMENTS

CBC 713.6.1 Where the word [... "supervised" smoke detector.) was originally proposed by SFM and deleted by the committee, the phrase;

[... smoke detector interconnected to facility fire alarm system and monitored for integrity.] should be inserted.]

ITEM 8-COMMENT NO. 1 COMMISSION ACTION

A A/A D F/S

Reason:

* * *
(END OF ITEM)

Manny Muniz Associates
On behalf of California Automatic Fire Alarm
Association(CAFAA)
Orangevale, California

ACTION REQUESTED: Manny Muniz on behalf of CAFAA does not agree with the Building, Fire and Other Advisory Committee's recommendation of "Approve as Amended". Manny Muniz is proposing further amendments and is requesting that this item be "**Approved As Amended.**" See amendments below.

REASON: This amendment is necessary in order to comply with criteria No. 6, which requires that the proposed building standard is not unnecessarily ambiguous or vague, in whole or in part. By stating that the "automatic-closing fire assembly shall be activated by a system smoke detector which is monitored for integrity", you will make it clear that only a smoke detector which complies with UL 268, Smoke Detectors for Fire Protective Signaling Systems may be used. Without this amendment, it would be possible to use UL 217 smoke detectors which are intended for residential use and which cannot be monitored for integrity.

CAFAA's PROPOSED AMENDMENTS

[For SFM] 6. In Group I Division 1.1 Occupancies fire door assemblies installed in fire resistive shaft construction, occupancy separation ~~or~~ area separation ~~or~~ horizontal exit walls shall be self-closing or automatic closing fire assemblies except that fire assemblies required to have a three hour fire protection rating shall be automatic closing only. Automatic-closing fire assemblies shall be activated by a supervised system smoke detector, which is monitored for integrity in accordance with Section 713.2. (Remainder unchanged)

ITEM 8-COMMENT NO. 2 COMMISSION ACTION

A A/A D F/S

Reason:

* * *
(END OF ITEM)

ITEM 8 – COMMENT NUMBER 2:

ITEM 13

DSA/AC 7/99

PART 2, CHAPTER 11B

(See this Item commencing on page 47, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

ITEM 13 – COMMENT NUMBER 1:

Charlotte A. Carroll

Advocate

Protection and Advocacy, Inc. (PAI)

Sacramento, California

ACTION REQUESTED: None. Charlotte A. Carroll agrees with the Accessibility Advisory Committee's recommendation of "**Approve as Submitted**".

REASON: The proposed changes in building signage are necessary to bring this into compliance with Americans with Disabilities Accessibility Guidelines (ADAAG). ADAAG requires signs to be non-glare while the California Building Code currently does not have this requirement. PAI supports the change in language from the original proposal and supports the non-glare provisions as stated in this current draft.

ITEM 13-COMMENT NO. 1
COMMISSION ACTION

NO COMMISSION ACTION REQUIRED

Reason:

* * *
(END OF ITEM)

ITEM 14

DSA/AC 8/99

PART 2, CHAPTER 11B

(See this Item commencing on page 48, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

ITEM 14 – COMMENT NUMBER 1;

Charlotte A. Carroll

Advocate

Protection and Advocacy, Inc. (PAI)

Sacramento, California

ACTION REQUESTED: None. Charlotte A. Carroll agrees with the Accessibility Advisory Committee's recommendation of **"Approve as Submitted"**.

REASON: The proposed changes in the building Signage in this section deals primarily with the height of the lettering and numbering. The changes reflect the comments made at the last public hearing and do indeed bring the California Building Code into compliance with, Americans with Disabilities Act, Accessibility Guidelines (ADAAG) standards. PAI supports the changes in height to the size of letter and numbers for persons with visual impairments.

ITEM 14-COMMENT NO. 1 COMMISSION ACTION

NO COMMISSION ACTION REQUIRED

Reason:

* * *

(END OF ITEM)

ITEM 16

DSA/AC 4/99

PART 2, CHAPTER 11B

(See this Item commencing on page 51, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

Text that is shown highlighted represents the commentator's proposed amendments.

ITEM 16 – COMMENT NUMBER 1:

Arnie Hollander, Vice President and Project Director
The Lurie Company
San Francisco, California

ACTION REQUESTED: Arnie Hollander does not agree with the Accessibility Advisory Committee's recommendation of "Approve as Amended". Mr. Hollander is requesting that this item be **"Approved As Amended."** See amendments below.

REASON: The Accessibility Committee of the Building Standards Commission, of which I am a member, approved, by near unanimous vote, amended language allowing the construction of unisex bathrooms in buildings, under very restricted conditions. The amended language was crafted at the time of the Committee hearing. In reviewing the language, as it came out in the Monograph, I believe that it is confusing. I have provided a minor rewrite of the approved language in hopes of making it more understandable. The proposed language was sent to the State Architects office, Access Compliance Division on September 16, 1999. The letter and subsequent calls did not result in a response from that office. Therefor, I am requesting that your office will determine if the proposed language is merely editorial and present it to the Building Standards Commission as such or that the proposed revisions be forwarded to the Commission with a recommendation that they be adopted as rewritten.

The proposed language follows. It is the same wording, as approved by the Committee, except it has words that need removal being struck out and the new words that need inclusion being shown italicized.

MR. HOLLANDER'S PROPOSED AMENDMENTS

1134B.2.2 Where it is technically infeasible, in the area of an alteration, to ~~make comply with the alteration of any existing restroom facilities code compliant and to the installation of separate sanitary facilities for each sex, then the installation of at least one unisex toilet/bathroom per floor being altered, located in the same area as existing toilet facilities, will be permitted. Such a facility shall meet the requirements of Section 1115B.7.2.~~

ITEM 16-COMMENT NO. 1 COMMISSION ACTION

A A/A D F/S

Reason:

* * *

(END OF ITEM)

ITEM 16 – COMMENT NUMBER 2:

HolLynn D'Lil
Sacramento, California

ACTION REQUESTED: HolLynn D'Lil does not agree with the Accessibility Advisory Committee's recommendation of "Approve as Amended". HolLynn is requesting that this item be **"Disapproved."**

REASON: The reasons I make such a request is that the proposed item was rewritten by the advisory committee and submitted to the Building Standards Commission without allowing for the public to make comments during a review period provided by the advisory committee. In addition, the item violates the criteria of Health and Safety Code Section 18930 numbers (3), (4), (5) and (6).

The item violates number (3) in that it significantly reduces access for people with disabilities to the built environment. As worded, item 16 can be interpreted to require that on any given floor of a building, regardless of size and how many total restrooms are provided, only one accessible restroom need be provided. This is clearly against public interest.

The item violates number (4) in that such a severe reduction in access was created by the advisory committee at their last meeting without opportunity to take the time to make sure that their intent was met. In addition, the advisory committee, by writing code during its meeting, did not allow time for public process and comment.

The item violates number (5) in that the cost to the public is unreasonable. Lack of access to restroom facilities makes buildings and facilities inaccessible to people with disabilities. As a result, the cost to the public in lost wages and in having to provide extra services is beyond measure.

The item violates number (6) because it is vague and ambiguous. The item as worded does not reflect its original intent, which is to allow unisex restrooms adjacent to gender specific restrooms in a proportion of one unisex restroom per two gender specific restrooms, one for women and one for men. Instead, it is possible to interpret item number 16 to

require only one accessible unisex restroom per floor, regardless of how large the floor may be and regardless of how many total restrooms are provided.

ITEM 16-COMMENT NO. 2 COMMISSION ACTION
A A/A D F/S
Reason: _____ _____ _____ _____

* * *
(END OF ITEM)

ITEM 16 – COMMENT NUMBER 3:

Charlotte A. Carroll
Advocate
Protection and Advocacy, Inc. (PAI)
Sacramento, California

ACTION REQUESTED: None. Charlotte A. Carroll agrees with the Accessibility Committee's recommendation of "**Approve as Amended**".

REASON: After the last public hearing, PAI supports the proposed changes to the current California Building Code with respect to unisex restroom facilities where alterations to existing facilities would create an undue burden for the owner. These changes would allow the owner to comply with the Americans with Disabilities Act, Accessibility Guidelines (ADAAG) standards.

ITEM 16-COMMENT NO. 3 COMMISSION ACTION
NO COMMISSION ACTION REQUIRED
Reason: _____ _____ _____ _____

* * *
(END OF ITEM)

ITEM 18

DGS/RESD 1/99

PART 2, CHAPTER 16A

(See this Item commencing on page 58, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

Text that is shown highlighted represents the commentator's proposed amendments.

ITEM 18 – COMMENT NUMBER 1:

Fred Hummel, FAIA, State Architect
Department of General Services, Division of the State Architect (DGS / DSA)
Sacramento, CA 95814

ACTION REQUESTED: Mr. Hummel does not agree with the Structural Design / Lateral Forces Advisory Committee's recommendation of "Approve As Amended." Mr. Hummel is requesting that this item be "Approved As Submitted" with only the amendments that were made by the Committee, on behalf of Office of Statewide Health Planning and Development's (OSHDP) request.

REASON: On July 28, 1999, the California Building Standards Commission (CBSC) Seismic and Lateral Force Committee reviewed the proposed regulations submitted by the State Architect through the Real Estate Services Division (RESA) concerning the seismic retrofit of state buildings of 20,000 sq. ft. or more in area. We are not in full agreement with the recommendations of the committee.

The proposed regulations are partly updating the wording and format of the Title 24, CCR, regulations from the 1994 edition

of the Uniform Building Code to conform to the 1997 edition of the document. *If* the committee's recommendations are accepted by the Building Standards Commission, it is important that the remaining updated version of these retrofit standards that apply to state buildings be adopted into the next editions of Title 24, CCR.

It was agreed between the State Architect and the RESA to proceed with the adoption of the proposed seismic retrofit regulations to include all state buildings, except those specifically exempted in statute, and all public and private buildings of concrete or reinforced masonry construction having an area of 20,000 sq. ft. or more. The Committee's recommendation is to disapprove Section 1640A.2.(b) which defines the applicability of the proposed regulations on the public and private buildings of concrete or reinforced masonry construction having an area of 20,000 sq. ft. or more.

We recommend that the Commission approve this section for the following reasons:

1. SB 597 legislation which added Chapter 13.5 (commencing with Section 8894) to Division 1 of Title 2 of the Government Code specifically sets forth in Section 1 (b) that "Many of these buildings provide housing, offices, and commercial space used by millions of Californians..." and

Section 1(d) states "Forty-three percent of all business struck by natural disaster never resume operations, and 28 percent of those that reopen fail within three years." Housing, offices, commercial space and businesses obviously refer to privately owned buildings and therefore are subject to the requirements of these regulations. The opponents to these regulations argued successfully, but erroneously before the committee that the wording of the statute did not intend to have privately owned buildings, but only state buildings, subject to these Title 24 regulations.

2. Similar legislation in 1990 (AB 3313) added Chapter 4 (commencing with Section 16600) to Division 12.5 of the Health and Safety Code in which the State Architect was directed to develop and adopt building seismic retrofit guidelines for all state buildings including those owned by the University of California and by the State University. These regulations were adopted as Division III-R of Title 24, CCR. If the intent of SB 597 was only to affect state owned buildings, then it was an unnecessary duplication of the earlier statute.

3. The opponents of the proposed regulations have argued that the intent of the legislation was not to produce regulations or standards, but only to provide voluntary guidelines for local jurisdictions to follow if they chose. The 1990 legislation for state owned buildings states specifically that "seismic retrofit guidelines" are to be developed (Section 16600(a) H & S Code) but further on in the statute the Building Standards Commission is required to review, approve and make applicable to all state owned buildings, the standards developed pursuant to this statute (Section 16601 (b) H & S Code). The 1992 legislation in Section 8894 (a) refers to the development of seismic retrofit guidelines and standards and Section 8894(b), (c) & (d) refer to seismic retrofit standards.

In the case of building standards as adopted by the Building Standards Commission and other state agencies, standards are regulations requiring compliance when formally adopted and published and are not "voluntary guidelines". The argument of the opponents is without substance or merit.

We hereby request that the proposed seismic retrofit regulations be presented to the California Building Standards Commission for consideration as they were initially submitted, subject to revisions developed through interaction with the agencies designated in the statute during the public hearing process.

We also request that the disapproval of specific sections of the proposed regulations recommended by the Seismic and Lateral Force Committee be disregarded based on the information in the paragraphs above.

ITEM 18-COMMENT NO. 1
COMMISSION ACTION

A A/A D F/S

Reason:

* * *
(END OF ITEM)

ITEM 18 – COMMENT NUMBER 2:

Ken Cleaveland, Director, Governmental Affairs
Building Owners and Managers Association (BOMA)
San Francisco

ACTION REQUESTED: Mr. Cleaveland agrees with the Structural Design / Lateral Forces Code Advisory Committee's recommendation of "Approve As Amended." Mr. Cleaveland is requesting that this item be "Disapproved" as submitted by Real Estate Services Division (RESO).

REASON: On behalf of the Building Owners and Managers Association of San Francisco, I wish to convey our organization's deep concerns regarding the inclusion of Item 18 in the September 1999 annual code adoption cycle monograph. The item (Part 2, Chapter 16A) would amend III-R of the 1995 California Building Code for all existing concrete and reinforced masonry buildings over 20,000 square feet to *include privately-owned buildings*. This proposed seismic code change has been discussed several times before with the Department of General Services, the State Architect's office, and others. It is a code requirement meant solely for state-owned buildings. BOMA's position rests firmly in communications from the bill's author, former Senator Alquist, who had stated in the legislative record (SB 597) that, "it is important to stress that the retrofit building standards developed pursuant to SB 597 would exist as voluntary guidelines, and without further legislation could not be interpreted as an obligation in and of themselves on the part of building owners to retrofit their buildings..." It is clear from those remarks these new seismic upgrade standards were being mandated only for state-owned properties.

The Commission's code advisory committee recommends against approving the code change as requested by DGS (6- 1) and instead that the CBSC approve Item 18 with their committee's amendment, which specifically deletes this code requirement for public and privately-owned concrete and reinforced masonry buildings, and leaves the new design and retrofit standards for state-owned buildings, as was the original legislative intent.

BOMA San Francisco urges the Commission to adopt the code advisory committee's position. Please refer to the attached copy of my June 10, 1999 letter to you, which outlined our objections using the Commission's 9-point criteria standard.

ATTACHMENTS

ATTACHMENT NO. 1, BOMA'S letter of June 10, 1999

RE: Item 18 - Code Change Submittals for 1999 - BOMA Opposes

*The Building Owners and Managers Association (BOMA) is strongly opposed to Item 18: Seismic Retrofit Standards for Concrete and Reinforced Masonry Buildings. This item proposes to require mandatory seismic retrofit of private concrete and unreinforced masonry buildings. This proposal is in complete opposition to SB 597. The author of that bill, Senator Alquist, stated in the record that SB 597 was to develop guidelines for voluntary use by building owners. (See attachment) Sen. Alquist stated these guidelines **"could not be interpreted as an obligation in and of themselves on the part of the building owners to retrofit their buildings... Furthermore, there was no intent that these standards be triggered by any action (such as remodeling) which a building owner might undertake unless the owner or local enforcement agency deems it appropriate to trigger compliance to these standards."***

Such standards were to have been developed with BOMA's input, but we have not been solicited for any such a task.

The potential impact on building owners, were this code change to go into effect, would simply be horrendous. Using your 9 point criteria, BOMA believes this proposed code change would do the following:

- 1. Duplicate provisions currently in the Uniform Code for Building Conversation concerning concrete tilt-up buildings.*
- 2. Exceed the legislative authority of the proposing agency. (See the attached letter from the Seismic Safety Commission.)*
- 3. Not be in the public interest. If a private occupied building were required to be retrofitted, the costs to do so and the process that would be required would result in the following serious problems:*
 - a) Lease termination legal challenges from tenants that would not want to relocate;*
 - b) Large tenant relocation costs including moving, new stationary, telephone and data re-wiring, tenant downtime;*
 - c) Tenant rent adjustment costs for temporary space and likely for new space because the retrofitted spaces would no longer work for tenants;*

- d) Leasing commissions for current leases and new leases;
 - e) Finance charges to cover the cost of the above and for the construction costs;
 - f) Design, engineering, project management, permit, testing and inspection and related professional service costs;
 - g) Construction costs to do the seismic work and the remodeling of current improvements that would have to be removed and/or reinstalled;
 - h) Loss of rent during the construction and re-lease periods;
 - i) Owner staff, insurance, legal and related expenses;
 - j) Additional construction and upgrades to bring building into compliance with other current codes (disabled access, fire safety, etc.);
4. The proposed standard is unreasonable, arbitrary and unfair in whole.

5. The cost to the public would be astronomical. The result of a requirement to do a retrofit of an occupied building would far exceed the ability of the owner to recover the costs. The result would, without a doubt, mean that many buildings would end up empty with no work done on them. We would be simultaneously creating new urban wastelands with no seismic improvements. We would do more harm than good.

6. The proposed language is unnecessary. Owners already have an obligation to keep their buildings safe. Current buildings are required to be upgraded when major renovations occur.

7,8,9. are not applicable.

There is no legal justification to approve this item.
We strongly urge the Committee to reject Item 18.

ATTACHMENT NO. 2, FRED TURNER'S LETTER OF JUNE 10, 1999

To: State of California
 State and Consumer Services Agency
 1130 K St. Suite 101
 Sacramento, CA 95814

I do not agree with the Agency proposed modifications As Submitted on Item No. 18 by the State Architect and the Division of Real Estate Development Services (DREDS), and request that this item or reference provision be approved as amended by the Commission.

REASON: Criteria 2: The proposed revisions in Section 1640A.2(b) entitled "Applicability" and 1640A.2.2 entitled "Retrofit Required" are not within the parameters established by enabling legislation. The original intent of the

legislature officially recorded in California's Historical and Statutory Notes unambiguously address this matter: "There was no intent that these standards be triggered by any action (such as remodeling) which a building owner might undertake unless the owner or local enforcement agency deems it appropriate to trigger compliance to these standards." DREDS proposes to add triggers and take discretionary authority away from enforcement agencies and owners regarding these triggers.

DREDS argues that all standards include triggers and 8894 of the Government Code requires the State Architect to develop standards. However, there is precedence where other standards specifically have no triggers. For example those retrofit standards in the California Building Standards Code Part 10, the California Code for building intentionally have no triggers.

The absence of specific triggers in standards is particularly appropriate and consistent with local, state, and federal laws and policies for building seismic retrofit provisions so as to allow each enforcement agency maximum flexibility in applying those standards. The absence of specific triggers allows agencies to develop and tailor their own triggers to each individual circumstance. The application for a building permit is still one way these standards may be invoked at an owner's discretion in cases where local enforcement agencies have chosen not to establish triggers.

DREDS also argues that only the seismic evaluation portion of the division are actually triggered by 1640A.2(b). I disagree. Nearly all buildings within in the scope of this division built before the mid 1970's will not meet the essential life-safety objective of this division. This will trigger 1640A.2.2 entitled "Retrofit Required."

Section 1640A.2.2 fails Criteria 6 because it is ambiguous and vague. Retrofitting within "a timely manner" is not defined, subject to wide interpretation, and unenforceable on a consistent basis.

Recommendation: Delete Section 1640A.1(b) and 1640A.2.2 in their entirety.

Fred Turner, SE
 Staff Structural Engineer

ATTACHMENT NO. 3, FRED TURNER'S LETTER OF SEPTEMBER 11, 1997

Dear Mr. Buscovich and Mr. Russell:

Attached are copies of Section 16600 et seq. of the Health and Safety Code enacted in 1990 and Section 8894 et seq. of the Government Code enacted in 1992.

Both laws were sponsored by the Seismic Safety Commission. The first law applies only to state buildings. The second law applies to non-federal public and private "buildings enclosing more than 20,000 square feet of floor

area with concrete or reinforced masonry column or wall construction." A January 4, 1994 letter from Senator Alquist, author of the latter legislation, clarified his intent:

"First, it is important to stress that the retrofit building standards developed pursuant to SB 597 would exist as voluntary guidelines, and without further legislation, could not be interpreted as an obligation in and of themselves on the part of the building owners to retrofit their buildings since owners already have the general responsibility of ensuring and maintaining safe buildings. Furthermore, there was no intent that these standards be triggered by any action such as remodeling) with a building owner might undertake unless the owner or local, enforcement agency deems it appropriate to trigger compliance with these standards. The retrofit buildings standards would be developed for the use of building owners who voluntarily chose to seismically retrofit their buildings or for the use of local governments which may desire to enact a local ordinance dealing with this matter. However, it was never the intent for these standards to be mandated on a statewide basis at this time and used like other model building codes for enforcement whenever existing buildings were undergoing improvement."

As this letter clarified the author's intent for this legislation, it has been reprinted in West's Annotated California and may be relevant to your expressed concerns.

The CBSC's rules limit you to commenting on the proposed code change's compliance with its nine point criteria. Your concerns appear to be focused on Criteria 2; "The proposed building standard is with the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency". You also appear to have expressed concerns about Criteria 6; "The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part". There may be other Criteria that you should consider when communicating to the CBSC and its committee.

Since I am an ex-officio member of the CBSC's Structural Design and Lateral Forces Committee I cannot give you my opinions on this matter until the Committee meeting on October 6th in accordance with the Bagley-Keene open Meeting Act. I trust these above facts will fulfill your request for public information.

Fred Turner
Staff Structural Engineer

ATTACHMENT NO. 4, GOVERNMENT CODE § 8894.CHAPTER 13.5

BUILDINGS WITH CONCRETE OR REINFORCED MASONRY COLUMN OR WALL CONSTRUCTION

1992 Legislation

Sections 1 and 5 of Stats. 1992, c. 1079 (S.B.597), provide:
"Section 1. The Legislature finds and declares all of the following:

(a) Certain types of older buildings, especially those designed and built prior to 1973 and constructed of concrete and masonry construction, have a history of poor

performance during earthquakes, and may lack a sufficient level of performance to avoid collapse.

"(b) Many of these buildings provide housing, offices, and commercial space used by millions of Californians, and hundreds of these persons could be killed or injured by the collapse of one of these buildings.

"(c) Many businesses need to have these buildings functioning following earthquakes in order to maintain their economic viability and the viability of the community.

"(d) Forty-three percent of all businesses struck by a natural disaster never resume operations, and an additional 28 percent of those that reopen fail within three years.

"(e) Some older buildings, because of the potential for collapse and other significant damage during earthquakes, pose an unacceptable risk to public safety, and threaten the economic viability of the businesses that use them the communities they serve, and possibly the economy of the state.

"(f) The first step in reducing this risk is to provide seismic retrofit guidelines and standards to help owners identify and retrofit buildings that pose unacceptable earthquake hazards.

"(g) The State of California is in the process of developing seismic retrofit guidelines and standards for state buildings in accordance with Chapter 1511 of the statutes of 1990.

"(h) It is the intent and the goal of the Legislature to develop minimum seismic retrofit guidelines and standards for buildings enclosing more than 20,000 square feet of floor area with concrete or reinforced masonry column or wall construction."

Sec. 5 The Legislature finds and declares that the use of the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 shall provide local governments with seismic retrofit guidelines and standards for local government buildings and those standards shall be used by the local building department for the evaluation and retrofit of those buildings." The Senate Daily Journal for the 1993-94 Regular Session, page 3641 contained the following letter dated Jan. 4, 1994 from Senator Alquist regarding the intent of S.B.597 (Stats.1992, a. 1079):

"Dear Mr. President and Members: I am submitting this letter to the journal to clarify the intent of legislation I authored in 1992.

Senate Bill 596 (Chapter 1079, statutes of 1992) was introduced and passed with the intent of developing building standards that could guide the retrofit of older reinforced concrete and masonry buildings constructed prior to 1973. The measure instructs the State Architect, in consultation with specified public and private organizations to establish a consensus on what structural modifications could be made to certain classes of buildings which, if implemented, could reduce the risk of injury and loss of life to occupants in the event of an earthquake. The State Architect and the various groups he is designated to consult with have recently begun

their work and require that certain matters be clarified about this statute.

"First, it is important to stress that the at building standards developed pursuant to SB 597 would exist, as voluntary guidelines, and without further legislation, could not be interpreted as an obligation in and of themselves on the part of the building owners to retrofit their buildings since owners already have the general responsibility of ensuring and maintaining safe buildings. Furthermore, there was no intent that these standards be triggered by any action (such as remodeling) which a building owner might undertake unless the owner or local enforcement agency deems it appropriate to bigger compliance to these standards. The retrofit building standards would be developed for the use of building owners who voluntarily chose to seismically retrofit their buildings or for the use of local governments which may desire to enact a local ordinance dealing with this matter. However, it was never the intent for these standards to be mandated on a statewide basis at this time and used like other model building codes for enforcement whenever existing buildings were undergoing construction improvement.

"Second, my intent in authoring this legislation was to have the State Architect engage in meaningful consultation with the working group. I expect the effort to reach a consensus. Moreover, I intended for the State Architect in consultation with the working group to categorize different building types, which exist with the class of buildings this statute deals with. The classes of pre-1973 reinforced concrete and masonry buildings, which actually had been constructed since the early 1930's, consist of many different structural designs. It was my intent that, as a first step, the State Architect and the working group would categorize these different building designs and determine what the potential seismic deficiencies are, if any, with each category of building prior to developing retrofit standards. In this manner, the State Architect and the working group could determine the most appropriate retrofit guidelines for each type of building in the class rather than have a comprehensive standard, which attempts to cover all structures in a common way. It was my hope that the working group could address the issues of standards and ultimately succeed in developing consensus on an acceptable standard of due care.

"In conclusion. I wish to point out that it was my intent in authoring SB 597 that the State Architect and the working group be primarily concerned with developing standards which would reduce the risk of building collapse and the preservation of lives and would be secondarily concerned with developing standards which would allow owners to choose higher performance levels such as allowing occupants to immediately reenter and reuse a building after an earthquake to continue their normal activities."

ATTACHMENT NO. 5, STATUTES OF 1992 CHAPTER 1079 (SB 597)

CONSTRUCTION-SEISMIC RETROFIT STANDARDS

An Act to add Chapter 13.5 (commencing with Section 8894 to Division 1 of Title 2 of the Government Code, relating to earthquake safety and making an appropriation therefor.

[Approved by Governor September 27, 1992]

[Filed with Secretary of State September 29, 1992]

LEGISLATIVE COUNSEL'S DIGEST

SB 507, Alquist. Seismic retrofit guidelines and standards: buildings with concrete or reinforced masonry column or wall construction.

Existing law contains various provisions relating to earthquake safety, including those schools, health facilities, and other types of buildings. Existing law also provides for the Seismic Safety Commission, which has responsibility for earthquake reduction and earthquake response preparedness.

Existing law further provides for building safety standards adopted by the State Building Standards Commission and published in the California Building Standards Code. Existing law also provides for the State Historical Building Code administered by the State Historical Building Safety Board within the office of the State Architect.

Existing law requires the State Architect and the State Building Standards Commission to develop and adopt building seismic safety retrofit guidelines for state buildings, including those owned by the University of California and the California State University.

This bill would require the State Architect, in consultation with the commissions and other prescribed entities, to develop seismic retrofit guidelines and standards for certain buildings enclosing more than 20,000 square feet of floor area with concrete or reinforced masonry column construction. This bill would further require the State Architect to publish a commentary explaining the guidelines and standards and their use and to submit the standards to the State Building Standards Commission, to make them available to other interested parties.

This bill would require that, on or before July 1, 1997 the State Building Standards Commission adopt, approve, codify, and publish the, standards by reference in the California Building Standards Code, and, by August 1, 1997, submit the standards to the Conference of Building Officials for consideration and adoption into model codes.

This bill, in addition, would appropriate \$800,000 from the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 to the State Architect for purposes of developing seismic retrofit guidelines and standards for state buildings, as prescribed.

This bill would also appropriate \$20,000 from the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 for the purpose of revising prescribed seismic retrofit standards for adoption for purposes of the bill.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following

(a) Certain types of older buildings, especially those designed and built prior to 1978 and constructed of concrete and masonry construction, have a history of poor performance during earthquakes, and may lack a sufficient level of performance to avoid collapse.

(b) Many of these buildings provide housing, offices, and commercial space used by millions of Californians, and hundreds of these persons could be killed or injured by the collapse of one of these buildings.

(c) Many businesses need to have these buildings functioning following earthquakes in order to maintain their economic viability and the viability of the community.

(d) Forty-three percent of all businesses struck by a natural disaster never resume operations and an additional 28 percent of those that reopen fail within three years.

(e) Some older buildings, because of the potential for collapse and other significant damage during earthquakes, pose an unacceptable risk to public safety, and threaten the economic viability of the businesses that use them, the communities they serve, and possibly the economy of the state.

(f) The first step in reducing this risk is to provide seismic retrofit guidelines and standards to help owners identify and retrofit buildings that pose unacceptable earthquake hazards.

(g) The State of California is in the process of developing seismic retrofit guidelines and standards for state-owned buildings in accordance with Chapter 1511 of the Statutes Of 1990.

(h) It is the intent and the goal of the Legislature to develop minimum seismic retrofit guidelines and standards for buildings enclosing more than 20,000 square feet of floor area with concrete or reinforced masonry column or wall construction.

SECTION 2. Chapter 13.5 (commencing with Section 8894) is added to Division I of Title 2 of the Government Code, to read:

CHAPTER 13.5. BUILDINGS WITH CONCRETE OR REINFORCED MASONRY COLUMN OR WALL CONSTRUCTION

8894. (a) The State Architect, in consultation with the State Building Standards Commission, the California Council of the American Institute of Architects, the California Building Officials, the International Conference of Building Officials, the Structural Engineers Association of California, the Seismic Safety Commission, the Department of Housing and

Community Development, the Concrete Masonry Association of California and Nevada, the Community Associations Institute, the Consulting Engineers and Land Surveyors of California, the California Building Owners and Managers Association, the California Hotel and Motel Association, the California Housing Council, Inc., the California Apartment Association, the California Chamber of Commerce, the Business Properties Association, the California Association of Realtors, the California Supervisors Association, the Executive Council of Homeowners, and the League of California Cities shall develop seismic retrofit guidelines and standards for buildings enclosing more than 20,000 square feet of floor area with concrete or reinforced masonry column or wall construction by January 1, 1996.

(b) The State Architect shall publish a commentary explaining the seismic retrofit guidelines and standards and their use by January 1, 1996. The seismic retrofit standards shall be submitted to the State Building Standards Commission, and shall be made available to other interested parties.

(c) On or before July 1, 1997, the State Building Standards Commission shall adopt, approve, codify, and publish by reference in the California Building Standards Code, the seismic retrofit standards developed pursuant to this chapter.

(d) On or before August 1, 1997, the State Building Standards Commission shall submit the seismic retrofit standards to the International Conference of Building Officials for consideration and adoption into model codes, as defined in Section 18916 of the Health and Safety Code.

8894.1. This chapter shall not apply to potentially hazardous (unreinforced masonry) buildings covered under Chapter 12.2 (commencing with Section 8875), any building covered under Chapter 18.4 (commencing with Section 8898), school buildings covered under Article 3 (commencing with Section 89140) of Chapter 2 of the Education Code, hospital buildings covered under Chapter 1 (commencing with Section 15000) of Division 12.5 of the Health and Safety Code, and historical buildings covered under Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code.

8894.2. "Seismic retrofit" means retrofitting or reconstruction of an existing building or structure, to significantly reduce structural collapse and falling hazards from structural or nonstructural components of any building or structure including, but not limited to, parapets, appendages, cornices, hanging objects, and building cladding that poses serious danger to the occupants or adjacent areas. "Seismic retrofit" also mean either structural strengthening or providing the means necessary to modify the seismic response that would otherwise be expected by an existing building or structure during an earthquake, so as to significantly reduce hazards to life and safety while also providing for the substantial safe ingress and egress of the building occupants immediately after an earthquake. Alternatively, "seismic retrofit" means to strengthen an existing building or structure, so as to improve or allow the building or structure to remain functional immediately after an earthquake.

8894.3. For purposes of this chapter, the term "in consultation with" means the meaningful and open solicitation of suggestions, ideas, and comments, and the response to these suggestions, ideas, and comments, and the opportunity to participate in meetings by the organizations named in this chapter. Consultation shall include consideration of what constitutes seismic deficiencies and the appropriate measures to correct the deficiencies.

SECTION 3. The sum of three hundred thousand dollars (\$300,000) is hereby appropriated from the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 to the State Architect for the purposes of developing seismic retrofit guidelines and standards for state buildings pursuant to Chapter 4 (commencing with Section 16600) of Division 12.5 of the Health and Safety Code.

SECTION 4. The sum of twenty thousand dollars (\$20,000) is hereby appropriated from the Earthquake Safety and Public Building Rehabilitation Fund of 1990 to the State Architect for the purposes of revising the seismic retrofit guidelines and standards developed pursuant to Chapter 4 (commencing with Section 16600) of Division 12.5 of the Health and Safety Code, for submittal to the State Building Standards Commission for adoption of the seismic retrofit standards for the purposes of Chapter 13.5 (commencing with Section 8894) of Division I of Title 2 of the Government Code.

SECTION 5. The Legislature finds and declares that the use of the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 shall provide local governments with seismic retrofit guidelines and standards for local government buildings and those standards shall be used by the local building department for the evaluation and retrofit of those buildings.

ITEM 18-COMMENT NO. 2			
COMMISSION ACTION			
A	A/A	D	F/S
Reason:			

* * *
(END OF ITEM)

ITEM 18 – COMMENT NUMBER 3:

Annie Hollander, Vice President and Project Director
The Lurie Company
San Francisco

ACTION REQUESTED: Mr. Hollander agrees with the Structural Design / Lateral Forces Code Advisory Committee's recommendation of **"Approve As Amended."** Mr. Hollander is requesting that this item be **"Disapproved"** as submitted by Real Estate Services Division.

REASON: We completely concur with the Building Owners and Managers Association (BOMA) that the Building Standards Commission must reject Item 18, as presented by the Department of General Services (DGS).

First, it contrary to legislation (SB 596) which states that seismic guidelines and standards for seismic upgrades are to be applied to private buildings on a voluntary basis on. A copy of the legislation intent is attached for your reference.

Secondly, your staff has stated in the Monograph that DGS does not have the legal authority to even put forth the proposed code change.

Lastly, the Structural Advisory Committee to the Building Standards Commission voted 6 to 1 to reject the DGS proposal primarily because it was not consistent with current law. The Committee then went on to approve an amendment that applies the code change only to state owned buildings. That appears to be consistent with current legislation.

Using the Commissions mandatory 9 point criteria we believe that:

Point 1. The DGS proposal contains duplicative provisions of the UCBC.

Point 2. The DGS proposal exceeds its legislative authority.

Point 3. The proposal is not in the public interest. If approved it would result in enormous legal challenges from tenants in occupied buildings who would have to move out to allow the building to be retrofitted. The costs to vacate buildings, pay tenant moving costs and new rents in other buildings, legal fees and real estate commissions, design fees and construction cost will be well beyond the owners ability to recover their costs. This will result in legal battles to attempt to get compliance.

Point 4. The proposed code change is unreasonable, arbitrary and unfair in whole, as indicated in Point 3 above.

Point 5. The cost to the public would be enormous and beyond the ability of a property owner to recover his or her cost.

Point 6. The proposed language is unnecessary and illegal.

Points 7, 8, and .9. NA The proposed DGS code change is illegal, unfair and not in the public interest. We strongly encourage the Commission to reject this item or approve the recommendations of the Structural Advisory Committee.

ATTACHMENTS

Mr. Hollander has attached the following documents to his comment:

- Fred Turner's letter of September 11, 1997. Please refer to attachment number 3 on page 22 of this monograph.
- Government Code § 8894 Chapter 13.5 "Buildings With Concrete or Reinforced Masonry Column or Wall Construction". Please refer to attachment number 4, on page 23 of this monograph.

ITEM	18-COMMENT	NO.	3
COMMISSION ACTION			
A	A/A	D	F/S
Reason:			

* * *

(END OF ITEM)

ITEM	18-COMMENT	NO.	4
COMMISSION ACTION			
A	A/A	D	F/S
Reason:			

* * *

(END OF ITEM)

ITEM 18 – COMMENT NUMBER 4:

Kurt A. Schaefer, Deputy Director
Office of Statewide Health Planning and Development (OSHDP)
Sacramento, California

ACTION REQUESTED: OSHPD agrees with the Structural Design / Lateral Forces Code Advisory Committee's recommendation of "**Approve As Amended.**" OSHPD is requesting that this item be "**Disapproved**" as submitted by RESD. OSHPD is proposing further amendments to this item and is requesting that this item be "Approved As Amended." See amendment below.

REASON: OSHPD agrees with the Structural Design Lateral Force Code Advisory Committee's recommendation to "Approve As Resubmitted." However, OSHPD is proposing to further amend this item. See amendment below.

OSHDP's PROPOSED AMENDMENT

1640B.1.2 A.2 Applicability. a) For all state-owned structures, including all buildings owned by the University of California and California State University: excluding hospital buildings covered under Section 45000 129675 et seq. of Division 42.5 107 of the Health and Safety Code and essential services buildings. (Remainder of section unchanged)

ITEM 18 – COMMENT NUMBER 5:

Robert E. Raymer, P.E.
California Building Industry Association (CBIA)
CBIA Technical Director
Sacramento, California

ACTION REQUESTED: Mr. Raymer agrees with the Structural Design / Lateral Forces Code Advisory Committee's recommendation of **"Approve As Resubmitted."** Mr. Raymer is requesting that this item be **"Disapproved"** as submitted by RESD.

REASON: On behalf of the California Building Industry Association, I would like to express my strong concern with Item No. 18, the proposal submitted by the Real Estate Services Division within the Department of General Services.

As originally submitted, this proposal would have expanded application of Division III-R (Part 2, Chapter 16A, EARTHQUAKE EVALUATION AND DESIGN FOR RETROFIT OF EXISTING STATE-OWNED BUILDINGS) to include Public and Private Concrete and Reinforced Masonry Buildings. On a 6-1 vote, the Structural Design and Lateral Force Code Advisory Committee amended this proposal by, among other things, **deleting the expanded application to "public and private concrete and reinforced masonry buildings"**.

Opposed to the original RESD/DGS submittal, CBIA strongly supported the BSC Code Advisory Committee recommendation to "Approve As Resubmitted". However, it has come to our attention that an effort may be made to convince the Building Standards Commission to disregard the advice of the Code Advisory Committee and to seek approval of Item No. 18 "Approve As Submitted". This being the case, the California Building Industry Association will continue to oppose such an adoption for the following reasons:

CRITERIA No. 2: The proposal exceeds the statutory authority as referenced (Health & Safety Code 8894). As indicated in the CBSC Staff Concerns, this proposal would effectively establish "standards" as opposed to "voluntary guidelines" intended by the enabling legislation. This was the clear subject of debate as the bill moved through the California Legislature. In addition, the author of the enabling legislation, former Senator Alquist, went so far as to publish a letter of intent in the Senate Daily Journal (attached) which clearly indicated that the material developed pursuant to his legislation would exist as **voluntary guidelines**. In addition, I would question whether the Department of Real Estate Services within the Department of General Services has been authorized by statute or directed by the Administration to develop such a proposal.

CRITERIA No. 5: The economic impact analysis submitted by the proponent is entirely inadequate, to say the least. Lacking any additional information, **it would appear that the agency made no effort to quantify the cost of compliance with this regulatory proposal, as required by statute.** On a related note, it was deficient cost impact

analysis such as this that prompted the California Legislature to approve AB 2697 (Chapter 426, 1998) without a single dissenting vote in either house. AB 2697 (Ducheny) requires the Trade and Commerce Agency, if requested by the California Building Standards Commission, to provide an economic review of the housing cost impact statement or related study submitted by a building standards code-change proponent.

ATTACHMENTS

Mr. Raymer has attached the following documents to his comment:

- *Government Code § 8894 Chapter 13.5 "Buildings With Concrete or Reinforced Masonry Column or Wall Construction". Please refer to attachment number 4, on page 23 of this monograph.*

ITEM 18-COMMENT NO. 5 COMMISSION ACTION

A A/A D F/S

Reason:

* * *

(END OF ITEM)

ITEM 18 – COMMENT NUMBER 6:

Kurt T. Cooknick, Associate, American Institute of Architects (AIA), California Council (AIACC)
Director of Regulation and Practice
Sacramento, California

ACTION REQUESTED: Mr. Cooknick agrees with the Structural Design / Lateral Forces Code Advisory Committee's recommendation of **"Approve As Resubmitted."** Mr. Cooknick is requesting that this item be **"Disapprove"** as submitted by RESD.

REASON: On behalf of the American Institute of Architects, California Council (AIACC), I wish to convey our concerns regarding Item 18 in the September 1999 Annual Code Adoption Cycle Monograph. The item (part 2, Chapter 16A) would amend III-R of the 1995 California Building Code for a existing concrete and reinforced masonry buildings over 20,000 square feet to **include privately - owned buildings**. It is our understanding that these retrofit standards are being developed pursuant to SB 597 (Chapter 1097, Stats. of 1992.) It is our interpretation -supported by

testimony from former Senator Alquist, author of SB 597 - that this code requirement is intended solely for **state-owned structures**, and that this is supported by the language of SB 597.

It is also worth noting that the CBSC's Structural Design/Lateral Forces Code Advisory Committee (CAC) recommended that this language apply only to state-owned structures, including all buildings owned by the University of California and the California State University Systems. Perhaps a review of the CAC's reasons for reaching this conclusion will bring clarity to this issue.

Using the CBSC 9 point criteria for code change evaluation, AIACC believes the following to apply:

1. Duplicates provisions of the current UBC, especially in relationship to concerning concrete tilt-up buildings.

2. Exceeds the authority of the proposing agency (DGS) since the enabling language of AB 597 was not intended to apply to privately owned buildings as proposed in this item.

3. Not in the interest of the public. Disruptions caused by retrofit construction would force building owners to vacate buildings and displace tenants, causing relocation cost to building owners and tenants, as well as loss of revenue for both. Additional cost triggered by retrofit construction to bring the building into compliance with other current codes (i.e., disabled access, fire safety, etc.).

4. The proposed standard is unreasonable, arbitrary, and unfair. The CAC advisory to the Commission was based on public input and considered debate. For the Commission to adopt such a radical departure from that advisory should not be done without extensive public hearings.

5. The cost to the public will be immense. Cost associated with construction would cause a significant financial hardship on building owners, who would fund the work, and for tenants who would pay higher rent and lease rates as "pass-through" cost.

6,7,8,9. Not applicable.

The AIACC respectfully requests the Commission to adopt the Code Advisory Committee's position on this issue. If however, the Commission intends to consider this item as published in Item 18 of the Monograph, we would also request - and encourage - that an extended period of the agenda be set aside for full public testimony before this critical issue is decided.

ITEM 18-COMMENT NO. 6
COMMISSION ACTION

A A/A D F/S

Reason:

* * *

(END OF ITEM)

ITEM 18 – COMMENT NUMBER 7:

Don Perry, Senior Economist
Office of Economic Research
California Trade and Commerce Agency (CTCA)
Sacramento, California

ACTION REQUESTED: None

REASON: This item is being proposed by Department of General Services, Real Estate Services Division (DGS/RES). Proposed Section 1640A.2 (b), in proposed Division IV-R, states that, "For all public and private buildings of concrete and reinforced masonry construction (excluding hospital buildings) of 20,000 square feet or more in area: The requirements of this division apply_ wherever the structure is to be retrofitted, repaired, or modified...." subject to specified trigger conditions. The changes would require a seismic evaluation and retrofit design for any such building.

DGS/RES is required to provide CBSC with completed nine-point criteria analysis (as specified in Health and Safety Code [H&SC] section 18930) to justify approval of the proposed changes by the CBSC. RRU believes that DGS/RES has not justified the changes in terms of Criteria 2 and 5.

Item 18 Fails to Comply with Criterion 2

The proposed changes do not appear to meet the spirit of the enabling legislation (Criterion 2), since SB 597 (c. 1079, Stats. 1992) intended that the proposed seismic retrofit guidelines be voluntary. Senator Alquist, the author of the legislation, later stressed this fact in his letter of January 4, 1994. The purpose of that letter was to clarify the intent of the legislation, and was printed in the *Senate Daily Journal* for the 1993-94 Regular Session. In that letter, Senator Alquist made the following statements regarding the legislative intent of S13 597:

"First, it is important to stress that the retrofit building standards developed pursuant to S13 597 would exist as *voluntary guidelines* [*italics emphasis added*], and without

further legislation, could not be interpreted as an obligation in and of themselves on the part of the building owners to retrofit their buildings "Furthermore, there was no intent that these standards be triggered by any action (such as remodeling) which a building owner might undertake unless the owner or local enforcement agency deems it appropriate to trigger compliance to these standards." "However, it was never the intent for these standards to be mandated on a statewide basis at this time and used like other model building codes for enforcement...."

It is unclear why, given the clearly stated legislative intent, DGS/RESA has continued to propose that mandatory seismic retrofit standards apply to private buildings and be subject to specified triggers. Since the proposed seismic retrofit regulations are not voluntary guidelines as apparently intended by the enabling legislation, RRU recommends that the Commission consider deferring proposed Section 1640A.2(b), until DGS/RESA submits information that meets Criterion 2.

Item 18 Fails to Comply with Criterion 5

DGS/RESA also has not demonstrated that the cost is reasonable based on the overall benefit to be derived (Criterion 5). Despite the dear requirement of H&SC section 18930(a)(5), DGS/RESA did not provide any information regarding cost impacts and associated benefits that would enable affected and interested parties to determine whether or not the proposed standards are justified in terms of Criterion 5. DGS/RESA does state in the 45-Day Public *Comment Monograph* that the proposed regulations "... would not have a significant adverse economic impact on businesses. However, DGS/RESA did not provide any facts or evidence in the *Monograph* to support that finding. RRU has been informed by regulated parties that the costs of complying with the standards would likely be in the billions of dollars. RRU recommends that DGS/RESA contact a representative sample of potentially impacted parties, and then provide cost and benefit estimates for the proposed standards, as required by Criterion 5. RRU recommends that the Commission defer action on Item 18 until the DGS/RESA completes the required cost and benefit estimates.

STD. 399 Form Needed for Item 18

Executive Order W-144-97 and California State Administrative Manual (SAM) section 6680 require that an economic impact statement (STD. 399, rev. 2-99) be included in each rulemaking record. SAM 6680 also requires that the STD. 399 form be approved and signed by the Agency Secretary. RRU requested the STD. 399 form for Item 18 from DGS/RESA several times, and has so far only obtained an outdated fiscal impact statement (STD. 399, rev. 9-94). A DGS/RESA staff person stated that they would provide a completed STD. 399 as soon as possible; however, RRU has not yet received a completed STD. 399. The unavailability of the STD. 399, and the lack of cost impact data in the rulemaking record make it impossible for interested and affected parties to assess the costs and benefits of the proposed regulations. RRU requests that a

completed STD. 399 be made publicly available as soon as possible.

ITEM 18-COMMENT NO. 7				
COMMISSION ACTION				
A	A/A	D	F/S	N/A
Reason:				

* * *
(END OF ITEM)

ITEM 18 – COMMENT NUMBER 8:

Rex S. Hime, President and Chief Executive Officer
California Business Properties Association (CBPA)
Sacramento, California

ACTION REQUESTED: Mr. Hime agrees with the Structural Design / Lateral Forces Code Advisory Committee's recommendation of "Approve As Resubmitted." Mr. Hime is requesting that this item be "Disapprove" as submitted by RESA.

REASON: This is to notify you that California Business Properties Association (CBPA) shares the concerns raised by Bob Raymer of the California Building Industry Association (CBIA) and Les Spahn representing the Building Owners and Managers Association (BOMA) on item 18 of the 1999 Annual Code Adoption Cycle.

ITEM 18-COMMENT 8			
COMMISSION ACTION			
A	A/A	D	F/S
Reason:			

* * *
(END OF ITEM)

ITEM 18 – COMMENT NUMBER 9:

John W. Laws, Chair
Structural Engineers Association of Northern California
(SEAOC)
San Francisco, California

ACTION REQUESTED: Mr. Laws on behalf of "Structural Engineers Association of Northern California (SEAOC)" does not agree with the Structural Design / Lateral Forces Code Advisory Committee's recommendation of "Approve As Resubmitted." He is requesting that this item be **"Approved As Submitted" by RESD.** SEAOC is proposing to further amend this item. See the amendments below.

REASON: The Structural Engineers Association of California, Existing Buildings Committee endorses the October 19, 1999 Version of the subject code change proposal with the following exceptions:

SEAOC's PROPOSED AMENDMENTS

1. Proposal: In the Title "Earthquake Evaluation and Design for Retrofit of Existing State-owned Buildings and Public and Private Concrete and Reinforced Masonry Buildings, replace the word "Buildings" with "Structures".

Reason: Structures include structures other than just buildings, and the term is used throughout the document with that intent

2. Proposal: Modify the last sentence in Section 1640A.2. 1, Evaluation Required as follows: If the structure's seismic performance is evaluated as satisfactory through either Methods A, B, C or D of Section 1643A.1, and the peer reviewer(s), when Method B of Section 1648A is used, concur, then no structural retrofit is required.

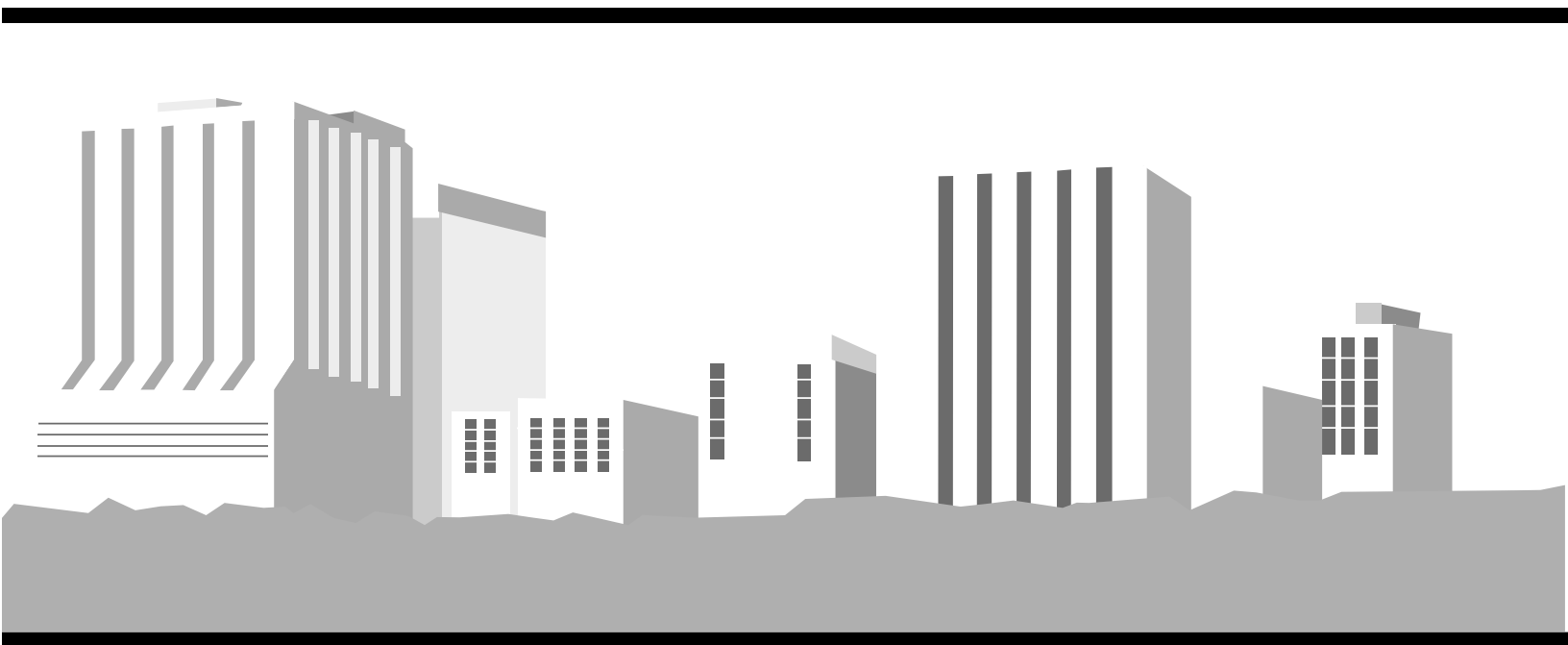
Reason: Methods C and D have been added to Section 1643A. 1, Basis for Evaluation and Design, and should *be* added to Section 1640A. 2. 1.

<p>ITEM 18-COMMENT NO. 9 COMMISSION ACTION</p> <p>A A/A D F/S</p> <p>Reason: _____</p> <p>_____</p> <p>_____</p> <p>_____</p>

* * *
(END OF ITEM)

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PART 3
CALIFORNIA BUILDING STANDARDS
BUILDING CODE



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ITEM 22

DSA/AC 1/99

PART 3, AMENDED ARTICLES

(See this Item commencing on page 107, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

Text that is shown highlighted represents the commentator's proposed amendments.

ITEM 22 – COMMENT NUMBER 1:

John K. Guhl, Deputy State Fire Marshal
Regulations Coordinator
Office of the State Fire Marshal
Sacramento, California

ACTION REQUESTED: The SFM agrees with the Plumbing, Electrical, Mechanical and Energy Advisory Committee's recommendation of "Approve As Resubmitted." However, the SFM is recommending that DSA/AC further amend this item. See recommendation below.

REASON: The Office of the State Fire Marshal Regulations Unit has reviewed and approved the proposed adoption and amendments to the California Electrical Code, by the California Division of the State Architect - Access Compliance, pursuant to California Building Standards, Rulemaking Law §11359 (a), except for Item 22 *Article 761(a) Installation Heights of Manual Stations*.

The Office of the State fire Marshal recommends that this proposed California Amendment by Access Compliance, be changed to the language and "details" specified in Chapter 11 of the California Building Code, relating to "front reach and side reach" installation requirement heights, and to that of the National Fire Alarm Code Handbook, NFPA 72 (1996), relating to mounting heights of manual fire alarm boxes.

SFM's RECOMMENDED AMENDMENT

The National Fire Alarm Code Handbook NFPA 72 (1996), Section 5-8. 1.1 Commentary states: The "front reach" ADA requirement permits a maximum mounting height of 48 inches.

ITEM 22-COMMENT NO. 1 COMMISSION ACTION

A A/A D F/S

Reason:

* * *

END OF ITEM

ITEM 22 – COMMENT NUMBER 2:

Manny Muniz Associates
Comments made on behalf of California Automatic Fire Alarm Association (CAFAA)
Orangevale, California

ACTION REQUESTED: Mr. Muniz does not agree with the Plumbing, Electrical, Mechanical and Energy Advisory Committee's recommendation of "Approve As Resubmitted." Mr. Muniz is proposing further amendments to this item. Mr. Muniz is requesting that this item be "Approved As Amended." See the amendment below.

REASON: This deletion is necessary in order to comply with:

Criteria No. 1: Section 761 would conflict with the regulations already adopted by the State Fire Marshal. NFPA 72, 1996 edition, Section 5-8.1.1 requires that the mounting of a manual fire alarm box shall be not less than 3 1 / 2 ft (1.1 m) and not more than 4 1/2 ft (1.37 m) above the floor level.

Criteria No. 2: Section 761 is within the exclusive jurisdiction of the SFM

Criteria No. 7: DSA/AC has not incorporated the published national standard, NFPA 72,1996 edition as adopted by the SFM.

Criteria No. 9: Section 761 should not be approved by the SFM because of the conflict.

CAFAA's PROPOSED AMENDMENT

Delete Article 760, Section 761.

ITEM 22-COMMENT NO. 2
COMMISSION ACTION

A A/A D F/S

Reason:

* * *

(END OF ITEM)

ITEM 23

HCD 1/99

PART 3, ALL ARTICLES

(See this Item commencing on page 110, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

ITEM 23 – COMMENT NUMBER 1:

John K. Guhl, Deputy State Fire Marshal
Regulations Coordinator
Office of the State Fire Marshal
Sacramento, California

ACTION REQUESTED: The SFM agrees with the Plumbing, Electrical, Mechanical and Energy Advisory Committee's recommendation of **"Approve As Submitted."**

REASON: The Office of the State Fire Marshal Regulations Unit has reviewed and approved the proposed adoption and amendments to the California Electrical Code by the California Department of Housing and Community Development, pursuant to California Building Standards Rulemaking Law, § 11359 (a), as published in the September 1999 Monograph.

ITEM 23-COMMENT NO. 1
COMMISSION ACTION

A A/A D F/S

Reason:

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END OF ITEM

ITEM 24

OSHDP 2/99

PART 3, VARIOUS ARTICLES

(See this Item commencing on page 110, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

ITEM 24 – COMMENT NUMBER 1:

John K. Guhl, Deputy State Fire Marshal
Regulations Coordinator
Office of the State Fire Marshal
Sacramento, California

ACTION REQUESTED: The SFM agrees with the Plumbing, Electrical, Mechanical and Energy Advisory Committee's recommendation of "Approve As Resubmitted" except for text that the SFM is proposing to amend. The SFM is requesting that this item be **"Approved As Amended."** See amendment below.

REASON: Non-licensed ambulatory surgical clinics would not have to install a generator, but instead could utilize other reliable emergency power sources (i.e., uninterrupted power supplies).

The Office of the State Fire Marshal Regulations Unit has reviewed and approved the proposed adoption and amendments to the California Electrical Code, by the California Office of Statewide Health, Planning and Development, pursuant to California Building Standards Rulemaking Law §11359 (a), as published in the September 1999 Monograph, with the following exception and comments, to Article 517-50 (c) (1), Exception # 1:

SFM's PROPOSED AMENDMENT

Add the word: License ambulatory surgical clinics shall be provided with a generator with on site fuel.

ITEM 24-COMMENT NO. 1 COMMISSION ACTION
A A/A D F/S
Reason: _____ _____ _____ _____

* * *

END OF ITEM

ITEM 26

SFM 3/99 & HCD 3/99

PART 2, CHAPTER 12

PART 3, CHAPTER 6, ARTICLE 625

(See this item commencing on page 133, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

Text that is shown highlighted represents the commentator's proposed amendments.

ITEM 26 – COMMENT NUMBER 1:

Tom Gage
AC Propulsion, Inc.
San Dimas, California

ACTION REQUESTED: Mr. Gage does not agree with the Plumbing, Electrical, Mechanical and Energy Advisory Committee's recommendation of "Approve As Resubmitted."

Mr. Gage is proposing further amendments this item. He is requesting that this item be "Approved As Amended." See amendments below.

REASON: Item number 26, as submitted, will unnecessarily restrict the development and use of electrical vehicles, so it is not in the public interest (criteria no. 3), and will require unnecessarily expensive equipment, so its cost is too high, given the standard's benefits (criteria no. 5).

MR. GAGE'S PROPOSED AMENDMENTS:

625-13. Electric Vehicle Supply Equipment. Electric vehicle supply equipment rated at 125 volt 15 or 20 ampere or part of a system....

To: **625-13. Electric Vehicle Supply Equipment.** Electric vehicle supply equipment rated not more than 125 volts to ground or part of a system...

625-18 Interlock. Electric vehicle supply equipment... receptacle outlets rated 125 volt 15 or 20 amperes

To: **625-18 Interlock.** Electric vehicle supply equipment... receptacle outlets rated not more than 125 volts to ground....

625-19 Automatic De-energization of Cable. The electric vehicle supply...receptacle outlets rated at 125 volts, single phase, 15 and 20 amperes....

To: **625-19 Automatic De-energization of Cable.** The electric vehicle supply...receptacle outlets rated at not more than 125 volts to ground.....

Justification:

Receptacles rated at 120 volts, 15 amperes do not provide sufficient power for many electric vehicles to

recharge at an acceptable rate, particularly when advanced batteries such as NiMH are employed. Higher power receptacle types are already approved and safely used for public outlets and consumer products. In many cases, the cost of providing dedicated charge stations that meet the full criteria for Article 625 for electric vehicles is prohibitive or impractical.

Restricting permitted receptacle current rating (to 20 amperes) is arbitrary. Restricting the voltage to ground limits shock hazard. The recommended changes would preserve and clarify the voltage-based restriction, while allowing electric vehicles to recharge using commonly available, higher power outlets such as the NEMA 14-50, which is commonly used in public R V parks where recreational vehicles connect for on board power.

625-21 Overcurrent Protection. Overcurrent protection for ~~feeders and~~ branch circuits supplying electric vehicle supply equipment shall be sized for continuous duty and shall have a rating of not less than 125 percent of the maximum load of the electric vehicle supply equipment. Where noncontinuous loads are supplied from the same ~~feeder or~~ branch circuit, the overcurrent device shall have a rating of not less than the sum of the noncontinuous loads plus 125 percent of the continuous.

To: **625-21 Overcurrent Protection.** Overcurrent protection for branch circuits supplying electric vehicle supply equipment shall be sized for continuous duty and shall have a rating of not less than 125 percent of the maximum load of the electrical vehicle supply equipment. Where noncontinuous loads are supplied from the same branch circuit, the overcurrent device shall have a rating of not less than the sum of the noncontinuous loads plus 125 percent of the continuous loads.

Justification:

Where many electric vehicle chargers are installed, or where higher-power fast chargers are installed, requiring the service entrance and feeder to be sized for 125% of the maximum theoretical demand can make the cost of such installations excessive, and require needlessly oversized components. As the number of available chargers increases, and their power ratings increase, the probability of having a continuous succession of vehicles requiring sustained, full-power charging diminishes sharply. In installations where ten or more chargers are installed, it might be advisable to apply de-rating values for the required service and feeder capacity, as is done with recreational vehicle electrical supplies and other equipment. Similarly with fast chargers, which may complete a full recharge in a fraction of an hour, over-sizing the service entrance and feeder to 125% may be excessive. Until appropriate de-rating values for multiple charger installations can be established, the size of service entrances and feeders should be left to the discretion of the site owner, installer, and local code enforcement.

625-23 Disconnecting Means. For electric vehicle supply equipment, rated more than ~~60~~ amperes or more than 150 volts to ground, the disconnecting means shall be provided and installed in a readily accessible location. The

disconnecting means shall be capable of being locked in the open position.

To: **625-23 Disconnecting Means.** For electric vehicle supply equipment, rated more than 100 amperes or more than 150 volts to ground, the disconnecting means shall be provided and installed in a readily accessible location. The disconnecting means shall be capable of being locked in the open position.

Justification:

Until recently, dedicated electric vehicle charging above 40 amps A C involved high cost, dedicated off-board chargers. At the same time, EVSE for on-board chargers meeting the fill requirements of Article 625 was only commercially available in ratings up to 60 amperes. Driven by dramatic improvements in on-board charging technology that allow high-power, low-cost charging, new EVSE units are being introduced with ratings of 80 amps continuous (100 amps de-rated) and greater. These units meet the full requirements of Article 625 and UL and include internal over-current protection and an internal contractor for power disconnection. The installation of such units, up to a 100-amp rating, should not require a local service disconnect (other than the branch circuit over-current device).

625-25 Loss of Primary Source. Means shall be provided such that upon loss of voltage from the utility of other electric system(s), energy cannot be backfed through the electric vehicle supply equipment to the premises wiring system ~~The electric vehicle shall not be permitted to serve as a standby power supply.~~

To: **625-25 Loss of Primary Source.** Means shall be provided such that upon loss of voltage from the utility of other electric system(s), energy cannot be backfed through the electric vehicle supply equipment to the premises wiring system.

Justification:

Electric vehicles include battery packs that could supply substantial, high-quality, emergency standby power with very little cost. The present wording of the code is regressive by precluding the development of this technology. Elimination of the standby power prohibition would allow electric vehicle with suitable power supply and regulation to be used as an emergency power source, much like a portable generator. Because of the extensive safety requirements already in place to protect electric vehicle batteries, such applications could be substantially safer than other alternatives.

ITEM 26-COMMENT NO. 1
COMMISSION ACTION

A A/A D F/S

Reason:

* * *

(END OF ITEM)

ITEM 26 – COMMENT NUMBER 2:

Mark Rawson, California Energy Commission (CEC)

ACTION REQUESTED: CEC does not agree with the Plumbing, Electrical, Mechanical and Energy Advisory Committee's recommendation of "Approve As Resubmitted." Therefore, CEC is proposing to further amend this item. CEC is requesting that this item be "Approved As Amended." See amendments below.

REASON: Article 625-29(c), as monographed, will create a fire safety issue that is not in the public interest (criteria #3) and will create unenforceable standards for building officials that conflicts with other standards (criteria #1).
Approve as amended Article 625-29:

CEC'S PROPOSED AMENDMENTS

(c) Ventilation Not Required. Where ~~electric vehicle nonvented storage batteries are used or where~~ the electric vehicle supply equipment is listed or labeled as suitable for charging electric vehicles indoors without ventilation and marked in accordance with Section 625-15(b), mechanical ventilation shall not be required.

Justification:

The monographed code is based on the 1999 National Electrical Code (NEC). The California Energy Commission (Energy Commission) in conjunction with the Office of the State Fire Marshal (State Fire Marshal) and Department of Housing and Community Development worked together to submit this code change package. Additionally, the Energy Commission and State Fire Marshal collaborated in 1995 to adopt the 1996 NEC electric vehicle charging standards into the 1995 California Electrical Code in advance of the normal adoption cycle for the 1996 NEC.

The Energy Commission is proposing an amendment to the 45-day monograph. This amendment was made in the 1995 California Electrical Code and should be carried over to this adoption as well. The rationale for this amendment is two fold. The first rationale is specific to fire safety and the second pertains to enforceability for the building inspector.

Fire-Safety Rationale:

It is important to understand how the listed charging equipment operates in conjunction with the electric vehicle to understand these issues. Two types of listed charging equipment are available – equipment for use at a ventilated charging station and equipment for use at a nonventilated charging station. For a nonventilated installation, the appropriate listed equipment must be installed. When a vehicle is connected to the charging equipment in this instance, one of two possibilities occurs. When first connected to a vehicle, the charging equipment queries the vehicle to determine if it requires ventilation during the charging cycle (i.e., does the vehicle have vented or nonvented storage batteries). If the vehicle indicates it does not require ventilation, then the charging equipment will allow charging to initiate. If the vehicle indicates it requires ventilation, the charging equipment will not allow charging to initiate because the charging equipment cannot safely dispose of any hydrogen off-gassed from the batteries.

The equipment was designed in this fashion to provide a fail-safe method of preventing the unsafe charging of vehicles with venting batteries at nonventilated charging stations.

The monographed code provision would allow for non listed equipment to be used in a nonventilated installation that may or may not prevent venting electric vehicles to charge. A building official may ensure that a nonvented storage battery vehicle is going to charge there while conducting their building inspection, however, once signed off, the building official can no longer be sure only nonvented storage battery equipped vehicles will charge there. By allowing only listed equipment intended for that application to be used, the building official can be assured that a hazardous off-gassing of hydrogen will not occur under normal use.

Enforceability Rationale:

Secondly, the stricken language requires the building inspector to inspect for something he or she has no jurisdiction over – the vehicle. Automotive vehicles, which include electric vehicles, are not covered by the NEC as specified in Section 90-2(b)(1). Codifying the language as presented in the monograph would contradict this.

ITEM 26-COMMENT NO. 2
COMMISSION ACTION
A A/A D F/S

Reason:

* * *

(END OF ITEM)

ITEM 26 – COMMENT NUMBER 3:

Don Perry, Senior Economist
Office of Economic Research
California Trade and Commerce Agency (CTCA)
Sacramento, California

ACTION REQUESTED: None

REASON: This Item is a joint proposal by SFM and HCD. It would repeal Article 625 of the 1998 California Electrical Code and adopt the 1999 National Electrical Code (NEC).

Item 26 Fails to Comply with Criterion 5

SFM has not demonstrated that the cost is reasonable based on the overall benefit to be derived (Criterion 5). Despite the clear requirement of H&SC section 18930(a)(5), SFM did not provide any information regarding cost impacts and associated benefits that would enable affected and interested parties to determine whether or not the proposed standards are justified in terms of Criterion 5. The SFM states in the "Assessment of Effect of Regulations Upon Jobs And Business Expansion Elimination or Creation" section of the *Monograph* that "... the proposal will not result in any impacts on business or individuals..." SFM then reiterates that the regulations are enabling not mandating. Compliance will only be required if a consumer decides to have an Electrical Vehicle (EV) Charging System.

Impacted parties have indicated to Regulations Review Unit (RRU) that Sub-section 625-13 and other sections do not recognize current electrical vehicle technology, and will result in significant additional costs for little, if any, benefit. For example, some utility companies have programs where an EV and charging system are loaned to a consumer for one or two weeks, so that the consumer can evaluate whether an EV would meet their needs. Typically, the temporary EV supply equipment is rated above 125 volts. Proposed section 625-13 would require these temporary systems to be permanently connected and fastened in place. This additional costly and impractical requirement may discourage efforts to improve air quality and enhance EV usage. RRU recommends that SFM contact a representative sample of potentially impacted parties and then provide cost impact and benefit estimates for the proposed standards as required by Criterion 5.

RRU recommends that the Commission defer action on Item 26 until the SFM completes these estimates. In addition, NEC Article 625 standards should be again reviewed to determine whether they should be modified to meet California's EV usage goals.

<p>ITEM 26-COMMENT NO. 3</p> <p>COMMISSION ACTION</p> <p>A A/A D F/S</p> <p>Reason: _____</p> <p>_____</p> <p>_____</p> <p>_____</p>
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(END OF ITEM)

SUB-ITEM 27-4

OSHDP 12/99

PART 4, CHAPTER 11

(See this item commencing on page 143, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

SUB-ITEM 27 - 4 COMMENT NUMBER 1:

Kurt A. Schaefer, Deputy Director
Office of Statewide Health Planning and Development
(OSHDP)
Sacramento, California

ACTION REQUESTED: OSHDP does not agree with the Plumbing, Electrical, Mechanical and Energy Advisory Committee's recommendation of "Disapprove."
OSHDP is requesting that this item be "**Approved As Submitted.**"

REASON: The Office of Statewide Health Planning and Development does not concur with the PEME Code Advisory Committee's recommendation to disapprove Sub-Item 27-4. For more than 25 years OSHDP has regulated health care facilities. During this time, we have not become aware of any patients becoming exposed to refrigerants due to the malfunction of high probability systems. By allowing only low probability systems in Occupancy Groups I 1-1 and I 1-2, the Uniform Mechanical Code creates a financial hardship for health care facilities. Based on the overall benefit, the cost to health care facilities and the public is unreasonable.

(Criteria No. 5)

The Uniform Mechanical Code's (UMC) prohibition of probability systems in health care facilities is not based on any recognized standard. The UMC is more prohibitive than the American National Standards Institute/American Society of Heating, Refrigeration and Air Conditioning Engineers (ANSI / ASHRAE) Standard 15-94, Safety Code for Mechanical Refrigeration. OSHDP's amendment will make code enforcement for health care facilities consistent with the nationally recognized ANSI / ASHRAE Standard 15-94, Safety Code Mechanical Refrigeration. OSHDP's amendment pertains only to health care facilities. All other occupancy groups of the California Building Standards Code must comply with model language.

Approval of the OSHDP amendments as submitted will result in the enforcement of a nationally recognized standard that protects the public health and safety at a reasonable cost.

SUB-ITEM 27-4 COMMENT NO. 1
COMMISSION ACTION
A A/A D F/S

Reason:

* * *

(END OF ITEM)

SUB-ITEM 27 - 4 COMMENT NUMBER 2:

Roger Richter
California Healthcare Association (CHA)
Sacramento, California

ACTION REQUESTED: Mr. Richter does not agree with the Plumbing, Electrical, Mechanical and Energy Advisory Committee's recommendation of "Disapprove." Mr. Richter is requesting that this item be "**Approved As Submitted.**"

REASON: The California Healthcare Association (CHA) does not concur with the PEME Code Advisory Committee's recommendation to disapprove Sub-Item 27-4. CHA is not aware of any patients becoming exposed to refrigerants due to the malfunction of high probability systems. CHA concurs with earlier concerns raised by Office of Statewide Health Planning and Development (OSHDP) that by allowing only low probability systems in Occupancy Groups i- and i-1.2 the Uniform Mechanical Code creates a financial hardship for health care facilities. Our recommendation is based on criterion number 5 because the costs to health care facilities and the public is unreasonable.

OSHDP's amendment will make code enforcement for health care facilities consistent with the nationally recognized ANSI/ASHAE Standard 15-94, Safety Code Mechanical Refrigeration and will result in the enforcement of a nationally recognized standard that protects the public health and safety at a reasonable cost.

SUB-ITEM 27-4 COMMENT NO. 2
COMMISSION ACTION
A A/A D F/S

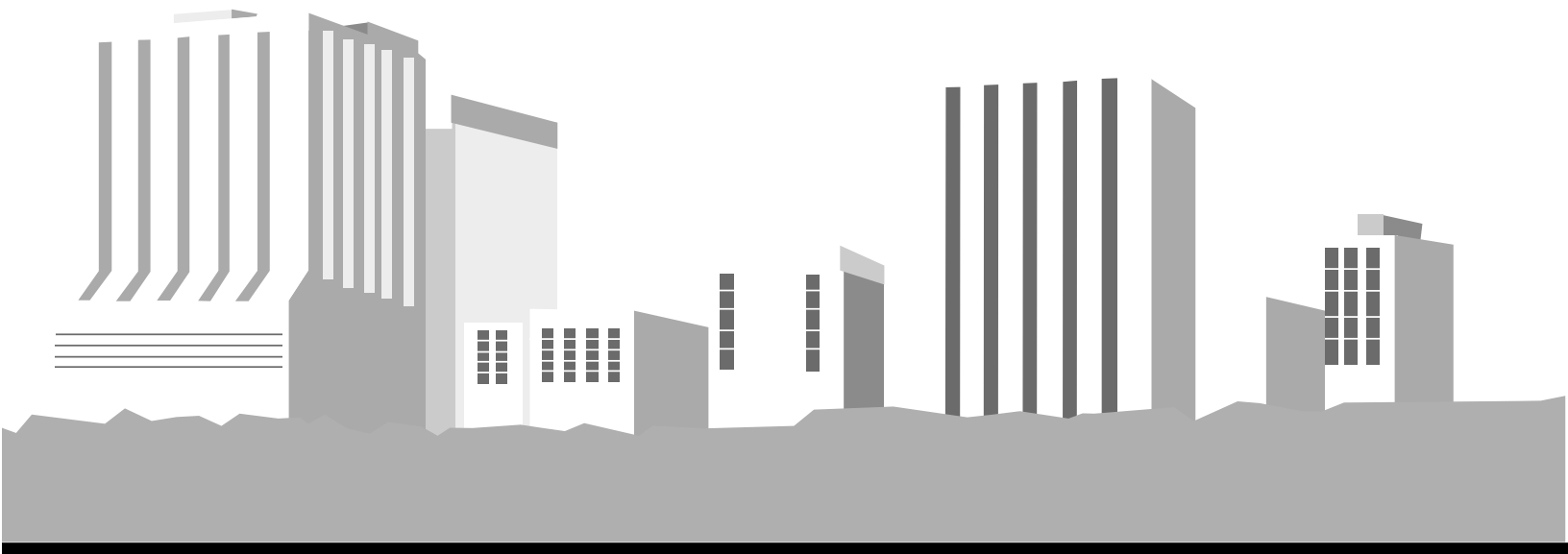
Reason:

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(END OF ITEM)

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PART 5
CALIFORNIA BUILDING STANDARDS
BUILDING CODE



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ITEM 31

HCD 2/99

PART 5, CHAPTER 11

(See this item commencing on page 161, of the September 1999, "45-DAY PUBLIC COMMENT MONOGRAPH")

ITEM 31 COMMENT NUMBER 1:

Daniel L. Cardozo, Attorney
Adams Broadwell Joseph & Cardozo
Sacramento, California

ACTION REQUESTED: These comments on the code change proposal referenced above are submitted on behalf of the California Pipe Trades Council, the California Professional Firefighters Association, the California Legislative Conference of the Plumbing, Heating and Piping Industry and the Mechanical Contractors of Northern California. The comments are also submitted on behalf of the following individual plumbers who would be personally and directly affected by the potential health and safety and environmental hazards associated with the installation and use of chlorinated polyvinyl chloride ("CPVC") potable water pipe: Richard Cuffe, Greg Baker, Ron Morgan and Sam Gill.

Mr. Cardozo is requesting that this item be **"Disapproved or Held For Further Study."**

REASON:

The organizations and individuals listed above respectfully request that the California Building Standards Commission ("Commission") disapprove, or hold for further study, the proposal by the Department of Housing and Community Development ("HCD") to amend the California Plumbing Code ("CPC") to authorize CPVC potable water pipe. The reasons for the requested disapproval are that the proposed approval of CPVC pipe: 1) fails to conform to the nine point criteria set forth in Health and Safety Code section 18930 and, therefore, its adoption would violate the Commission's obligations under the California Building Standards Law (Health & Safety §§ 18901 et seq.); 2) fails to comply with requirements of the Administrative Procedure Act ("APA"); and 3) fails to comply with the California Environmental Quality Act ("CEQA").

We addressed these same issues with respect to a virtually identical HCD code change proposal to authorize CPVC considered by the Commission in 1996. We have also addressed many of the pertinent issues in extensive and detailed comments presented to HCD in conjunction with its review of the CPVC proposal under CEQA. For these reasons, this letter presents only a summary statement of our objections to the proposed code change with references to the specific supporting analysis in our previous submittals. The supporting documents and

analysis are enclosed and are incorporated by reference and made a part of these comments.

Except as noted under Section II (C), the analysis contained in our comments on HCD's 1998 Final Environmental Impact Report on CPVC is cited to support our objections under the State Building Standards Law and the APA. Even though made in the CEQA context, the substantive analysis in our comments on the 1998 EIR is relevant to the other objections described below regarding the proposed code adoption.

OBJECTIONS

A. State Building Standards Law

The proposed code change fails to conform with several of the nine point criteria set forth in Health and Safety Code section 18930 for consideration by the Commission in reviewing proposed building standards:

1. The proposed building standard conflicts with existing CPC provisions contrary to section 18930(a)(1). The HCD proposed code change submittal claims that CPVC is already allowed under the CPC for potable water use between the service connection at the street up to the walls of the residential building, and that the proposal would allow CPVC use only within the interior walls of residential structures. This claim is inconsistent with 20 years of HCD amendments to Uniform Plumbing Code section 604. 1, which have deleted the section 604.1 authorizations for *both* interior *and* exterior CPVC use. The HCD regulatory proposal also claims that one-step CPVC cements are currently authorized for use in California, despite the express provisions of the CPC requiring use of a primer. (See Comments of California Pipe Trades Council, et al. on the Page 3

Draft Environmental Impact Report for Chlorinated Polyvinyl Chloride (CPVC) Pipe, August 29, 1998, Vol. I, ABJC Letter, pp. 44-46 (Volumes III submitted with these comments, hereinafter referred to as "1998 EIR Comments").)

2. No substantial evidence has been submitted that the public interest requires adoption of the proposed building standard as required by section 18930(a)(3). (See Comments of The Coalition for Safe Building Materials on Proposed Adoption/Approval of Amendment to California Plumbing Code to Authorize Use of CPVC Pipe, February 13, 1996 and Appendices Volumes I and II; Comments of The Coalition for Safe Building Materials on Permanent Adoption/Approval of Regulations Regarding the Use of CPVC Pipe (BSC/HCD EF 1/95), March 18, 1996 (hereinafter jointly referred to as "1996 Code Change Comments") and 1998 EIR Comments.) Indeed, substantial, uncontroverted evidence has been submitted showing that the proposed building standard could result in significant adverse health and safety and environmental effects. (*Ibid.*)

3. The proposed building standard is unreasonable, arbitrary, unfair and capricious contrary to section 18930(a)(4). The basis for this conclusion is described in detail in our comments on the previous code change proposal and in our comments on the 1998 EIR. (See 1996 Code Change Comments and 1998 EIR Comments.)

4. No showing has been made that the benefits to the public from the proposed building standard offset the potential costs to the public from the health and safety and environmental effects associated with CPVC use, and from potential pipe failures, as required by section 18930(a)(5). The inadequacy of the showing and the potential public costs are described in detail in our previous comments. (See 1996 Code Change Comments and 1998 EIR Comments.)

5. For the reasons stated under paragraph 1 above, the proposed building standard is ambiguous and vague and will result in confusion to code users contrary to section 18930(a)(6).

For these reasons, the Commission is required to disapprove the proposed building standard, or exercise its authority as the adopting agency to revise the proposal to address the objections stated.

B. Administrative Procedure Act

APA Chapter 3.5 sets forth-mandatory requirements for the adoption of regulations. (Health & Safety Code §§ 11340, *et seq.*) These provisions prescribe the form and content of the required Notice of Proposed Action and Initial Statement of Reasons ("ISOR"), including the specific statements and determinations that must be included in these documents. The Commission's Notice of Proposed Action and ISOR in this proceeding fail to comply with these APA requirements.

The Notice of Proposed action and ISOR rely on the same two reasons cited in the 1996 proceeding as the basis for the proposed building standard adoption: alleged savings in housing costs and problems with copper corrosion. The deficiencies associated with both reasons and the resulting APA violations were addressed in detail in our comments in the 1996 proceeding. In addition, the defects in HCD's conclusions regarding the economic effects of the proposed building standard were further addressed in our comments on the 1998 EIR. (See 1996 Code Change Comments and 1998 EIR Comments.)

C. California Environmental Quality Act

The proposed building standard adoption raises at least two CEQA issues for the Commission. First, it requires that the Commission conduct an environmental review pursuant to CEQA for those portions of the project outside the scope of HCD's EIR, and second, it requires the Commission to exercise its independent authority to condition its building standard adoption to address the potential impacts of the project identified in our comments on the 1998 EIR.

Even assuming the Commission may rely on HCD's EIR to support the proposed building standards adoption, that reliance is limited to the scope of the project covered by the 1998 EIR. The 1998 EIR expressly states that it does not consider any impacts related to the authorization of CPVC for use between the service connection and the wall of the residential occupancy, and that such

authorization was not a part of the project under consideration. If the Commission's proposed building standards adoption includes authorization for use of CPVC between the meter and the residential structure, that action would be subject to CEQA and would require a review of the potential environmental effects of the project as required by CEQA. As discussed in detail in our comments on the 1998 EIR, such approval of CPVC presents a potential for significant adverse impacts.

(See 1998 EIR Comments.) In addition, as discussed in our EIR comments, the HCD EIR fails to consider the complete plumbing system proposed for approval. (See 1998 EIR Comments, ABJC Letter, pp. 55-56.) The Commission's code adoption must be accompanied by a CEQA review of the complete plumbing system encompassed by the regulatory adoption.

HCD's proposed building standard includes a notation that would require the use of low-VOC CPVC solvent cements. HCD's regulatory submittal to the Commission claims that the requirement contained in this notation would reduce the worker and consumer chemical exposures and air quality impacts from CPVC installation and use. Even though HCD served as the Lead Agency under CEQA, the Commission acting as a CEQA Responsible Agency is authorized to require further mitigation measures or to deny the project subject to its approval based on its own authority under the State Building Standards Law. (14 C.C.R. §§ 15041, 15096(g); see also *La Canada Flintridge Development Corp. v. Department of Transportation* (1985) 166 Ca.App.3d 206, 214-216 [212 Cal.Rptr. 334] (Caltrans has independent statutory authority to require road widening as condition to encroachment permit even though city acting as CEQA lead agency did not require road widening as required mitigation for highway impacts).)

In this case, the Commission's authority to add notations or make revisions to the proposed building standard is as broad or broader than HCD since the Commission is acting as the adopting agency under Health and Safety Code section 18949.5. The inadequacy of HCD's proposed low-VOC requirement and the need for additional mitigation measures is discussed in detail in our 1998 EIR comments. The Commission must independently assess these issues and take appropriate action. (See 1998 EIR Comments.)

III. CONCLUSION

For the reasons stated above, we respectfully request the Commission to disapprove, or hold for further study, HCD's proposed building standard approving CPVC potable water pipe.

<p>ITEM 31 COMMENT NO. 1</p> <p>COMMISSION ACTION</p> <p>A A/A D F/S</p> <p>Reason: _____</p> <p>_____</p> <p>_____</p> <p>_____</p>

* * *

(END OF ITEM)

NOTE: Mr. Cardozo's comment letter makes references to the following documents:

- HCD's Final Environmental Impact Report on CPVC
- California Pipe Trades Council-Draft Environmental Impact Report for Chlorinated Polyvinyl Chloride (CPVC) Pipe, August 29, 1998, Vol. I. ABJC Letter, pp. 44-46 (Volumes I – III referred to as "1998 EIR Comments")
- 1996 Code Change Comments
- La Canada Flintridge Development Corp. v. Department of Transportation (1985)

Due to the volume of these referenced documents they will not be reprinted in this Monograph. These documents may be viewed at CBSC office. CBSC will not be providing copies of these documents.

Anyone wishing to view these documents may contact Leslie R. Williams at (916) 323-0118 or via e-mail at lewillia@dgs.ca.gov. to schedule a viewing time.